

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Legal and Social Issues Committee



Inquiry into children affected by parental incarceration

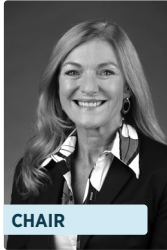
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Legislative Council Legal and Social Issues Committee

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About the Committee

Functions

The functions of the Legal and Social Issues Committee are to inquire into and report on any proposal, matter or thing concerned with community services, education, gaming, health, and law and justice.

The Legal and Social Issues Committee may inquire into, hold public hearings, consider and report on any matter, including on any Bills or draft Bills, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Families, Fairness and Housing
- Department of Health
- Department of Justice and Community Safety.

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This report is available on the Committee's website.

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Terms of reference

Inquiry into children affected by parental incarceration

On 20 December 2021, the Committee self-referred the following motion:

That the Legal and Social Issues Standing Committee inquire into and report, by 1 July 2022, on the adequacy of policies and services to assist the children of imprisoned parents in Victoria, with particular reference to:

- (a) the social, emotional and health impacts on affected children;
- (b) what policies exist and what services are available, including consideration of those in other jurisdictions;
- (c) how effective these services are, including—
 - (i) consideration of evaluation of work already done in this area; and
 - (ii) identifying areas for improvement.

Chair's foreword

Children affected by parental incarceration are the invisible victims of crime. They serve a sentence alongside their parent, an experience which may affect them negatively for their whole lives.

This has to stop and we have to help—not because assisting children of offenders is a way to reduce recidivism but, as Professor Nancy Loucks CEO of the International Coalition for Children with Incarcerated Parents eloquently expressed, because it is simply the right thing to do.

We are currently missing a very important opportunity to support children and their families who we know are often adversely affected when a parent is incarcerated. Children whose parents have been incarcerated can experience disruption to school, isolation, stigma, the effects of reduced family income including housing insecurity and are more likely to be incarcerated themselves. This is not inevitable but being in that situation as a child just makes things more difficult than they should be for a young person's development.

Children should have the same rights no matter who they are, or what their situation is. Australia is a party to the United Nations Convention on the Rights of the Child, and as such we have an obligation to protect children's rights to family, life, identity and privacy (among others). Many of these rights are compromised when a parent is imprisoned. In Victoria we have the *Charter of Human Rights and Responsibilities Act 2006* (Vic) to support our efforts.

There is no clear figure for the number of children affected by parental incarceration in Victoria. Researchers have estimated that about 7,000 Victorian children have a parent in jail at any time, or that 45,000 will have a parent in prison at some point during their childhood.

It saddens me immensely that estimates for Aboriginal children are higher than for non-Aboriginal children—about 20% of Aboriginal children will experience parental incarceration compared to 5% of non-Aboriginal children.

During the Justice Inquiry we found that Victoria's prison population has increased by 57.6% in the 10-year reporting period between 30 June 2010 and 30 June 2020. Again this has disproportionately affected Aboriginal Victorians, young people and women. Aboriginal women made up 14% of the total female incarceration population in 2020 despite Aboriginal and Torres Strait Islander people making up less than 0.8% of the Victorian population. And many are on remand—Victoria Legal Aid told us that the number of Aboriginal women on remand has increased five-fold over the past 10 years.

Aboriginal children are losing their parents at a greater rate than they were last century when we were removing them from their families. This is of immense concern to me.

We have to rethink our approach because incarcerating people isn't working and in my view keeping people on remand who have committed minor crimes, or not allowing them parole is also not helping. Our bail and parole systems have become dysfunctional, and have led to an ever increasing number of women in particular, and men, entering our prison system.

We need to allow courts to consider dependent children in sentencing decisions. Not where major crimes or family violence is an issue of course, but in relation to minor crimes where incarcerating people is not the only option.

Despite the impact of parental incarceration being identified as a social issue in Australia more than 25 years ago, the Committee found no evidence of formalised government responses to support children affected by parental incarceration in Victoria. Children are for the most part invisible to the justice and corrections systems. They are not considered in the decisions that directly affect their lives. Their rights are overlooked when punitive measures are taken against their parents. And the Committee heard time and again they are often vulnerable, confused, and isolated. Despite the vulnerability of this cohort we could not determine who was responsible, in government, for children in this situation.

There are a number of non-government organisations that are assisting children affected by parental incarceration, including SHINE, VACRO, and Prison Fellowship. They're doing a great job but there are no mechanisms in place in government to support children affected by parental incarceration. There has been a systemic failure to address the needs of these children. My view is that this needs to be resolved urgently.

We must also continue to work to ameliorate the disadvantage and inequity that leads to incarceration and offending. As I determined at the end of our Justice Inquiry, putting increasing numbers of people in jail isn't working and there is much to be done.

We were so lucky to speak to people who have experienced parental incarceration, including in prison where we talked to a number of men about parenting but also about their own experiences of parental incarceration. The intergenerational trauma, the cost to them and in turn to their children now, that was exposed during that discussion was very saddening. Talking to mothers in prison who were trying to continue to contribute to and monitor their children's development helped us understand the barriers they faced.

I'm grateful to Corrections Victoria who facilitated our visits to prisons, which was a very valuable experience, especially being able to talk to inmates and prison staff.

We were told by individuals that they have been silenced from speaking about their experiences for so long because of stigma that they could only face and describe their experiences in late adulthood and did so, in some cases, for the first time to the Committee. We felt privileged to hear their stories.

For a number of participants, their experiences of parental incarceration shaped—and continue to shape—their lives. Therapy bills can be expensive for anyone but if you are attempting to escape the immense trauma you grew up with and the stigma associated with your experiences this can be very expensive in an ongoing way. We must find a way to support people in this situation and take some of the cost burden from them.

My immense gratitude to all of our lived experience witnesses for sharing your stories. We have attempted to shape our report around what you told us.

Thank you to our colleagues and friends in New Zealand who were so open to a discussion about how our jurisdictions face this difficult problem. In particular thanks to the Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti, Associate Minister of Education; Honourable Justice Eivers, Commissioner for Children and Glenis Phillip-Barbara, Assistant Māori Children's Commissioner and their incredible team; representatives from the Department of Corrections NZ; Ahiphany Forward-Taua, Executive Director at Just Speak; Maxine Gay, General Manager and the committed team at Pillars; representatives from the Storytime Foundation; and members of NZ parliamentary Committees. Discussions in New Zealand allowed us to learn from a similar jurisdiction and to develop and consolidate our thinking.

We had a committed research team working on this report in a tight timeframe and I'm grateful to them for their dedication: Lilian Topic, Meagan Murphy, Kieran Crowe, Joel Hallinan, Jessica Wescott and Cat Smith. Thanks to them all, especially Meagan who was instrumental in the direction of the report and in our engagement with stakeholders affected by parental incarceration. Thanks too to Joel, Kieran and Jess for juggling their other responsibilities to assist later during the Inquiry.

I commend the report to the House.

A handwritten signature in black ink, appearing to read 'Fiona Patten', with a large, stylized initial 'F'.

Ms Fiona Patten MLC
Chair

Executive summary

Chapter 1: Introduction

The children of parents affected by parental incarceration are a hidden and often vulnerable cohort. This Inquiry stems from the Committee's drive to bring the plight of children affected by parental incarceration into the spotlight, to ensure they do not remain invisible and that our justice system and social support systems reduce harm and promote protections for affected children. This Chapter outlines the process that the Committee undertook to complete the Inquiry. It touches on existing reports and inquiries in Australia about parental incarceration, and outlines some of the overarching themes of the Committee's recommendations.

Chapter 2: Impacts of parental incarceration

There are many ways that having a parent in prison can change a child's life, both immediately and in the long term. The impacts can make every part of life harder: at home, at school, with friends and family. Parental incarceration can make children feel lost, lonely, scared and angry. The trauma involved, particularly for children who see their parent's arrest, can cause damage to emotional and physical health.

Having a parent in prison can also nudge kids towards destructive behaviours as a way to cope with the situation, which may include criminal behaviours. Incarceration may also be generational—that is, experiencing a parent's imprisonment may increase a child's risk of going to prison themselves. However, the risks of poorer outcomes for children are not set in stone. With good support at the right time the potential impacts of parental incarceration can be reduced or avoided.

The point at which a child's parent or parents are incarcerated is a point at which we can reach out to children to offer support. Not doing so may be a missed opportunity for assisting a child to find a safe trajectory to navigate this experience.

This Chapter highlights the experiences from children and adults who as children experienced parental incarceration. Using their own words, the Chapter looks at the many ways that a parent's prison sentence has impacted children.

Chapter 3: Reducing harm by reducing incarceration

There is no clear figure for the number of children affected by parental incarceration in Victoria. Researchers have estimated that about 7,000 Victorian children have a parent in jail at any time, or that 45,000 will have a parent in prison at some point during their childhood. Estimates for Aboriginal children are higher than for non-Aboriginal children—about 20% of Aboriginal children will experience parental incarceration compared to 5% of non-Aboriginal children.

Changes to Victoria's bail laws mean that more people are being put in prison. This in turn means that more parents are incarcerated. Chapter 3 discusses ways to reduce the number of parents in prison, and in turn, reduce the harm caused to their children.

Chapter 4: Government needs to lead and coordinate support efforts

There is a need for leadership from the government to make sure that children affected by parental incarceration are being appropriately supported. There is no government department with responsibility for providing support to these children. Because of this, children and families are falling through the cracks and are being left on their own.

As a party to the United Nations Convention on the Rights of the Child, Australia has an obligation to protect children's rights to family, life, identity and privacy (among others). Many of these rights can be affected when a parent is imprisoned.

The Committee believes that a unit or agency within the Department of Families, Fairness and Housing should lead the support for children impacted by parental incarceration. This unit could design ways to help support children's interests through their parent's journey in the criminal justice system. It should also provide a single point of entry for families who are trying to access support, with a coordination function to refer families to non-government service providers in this space.

In designing its response, it is important for the Victorian Government to consult with children and young people who have had a parent in prison to understand their needs and respond appropriately.

Chapter 5: Bringing children into view

Current data collection, collation, and sharing practices regarding children of incarcerated parents are not adequate to facilitate effective support. These children are 'invisible' to the justice system and wider government. They need to be made visible to better understand the challenges they may face and respond to their needs. To do this, the Victorian Government must establish data collection practices to understand how many children are affected, where they are and what they need. This Chapter looks at the few existing data collection points and makes recommendations to support more effective and useful data collection.

This Chapter also recognises that many families affected by incarceration may not trust government organisations with their information. To help bridge that trust, non government organisations supporting families affected by incarceration (such as SHINE for Kids, VACCA and VACRO) should play a role in collecting data and monitoring the needs of the cohort.

The data collected should also be de-identified and shared to support analysis and research that can lead to improved outcomes. This would allow non-government service organisations to inform better supports and identify areas of need.

Chapter 6: Better considering children in justice decisions

A lack of guidelines at various points of Victoria's justice system (such as arrest, sentencing and incarceration) leads to the interests and needs of children whose parents interact with the system not being systematically considered.

This Chapter provides an overview of how children's interests are rarely considered across the justice system. It discusses ways to reduce the harm to children at arrest, court and sentencing, as well as while their parent is incarcerated. It recommends that the Victorian Government review the justice system to identify points at which children's interests can be better considered. As part of this, the Committee recommends some specific changes, including introducing child-aware arrest practices for Victoria Police, improved consideration of children's interests when sentencing their parent and access to greater support services at court.

The Committee also recommends providing specific training and education to make sure those who work with children of people in the justice system understand their journey and needs.

The Chapter also addresses pregnancy and childbirth among incarcerated Victorians, and programs for children who are living with their mother in prison.

Chapter 7: Facilitating and maintaining meaningful family connections

The parent-child bond is important for child development, and maintaining contact between parents in prison and their children should be promoted where it is safe to do so. However, the Committee heard about significant obstacles that stop children being able to connect with their parents. This includes fractured relationships following arrest and sentencing, navigating the prison system, gender-based impacts and restricted access statuses for people in prison. This Chapter recounts the experiences of parents in prison as told to the Committee through prison visits and other submissions.

For children who do have contact with their parents in prison, contact can be maintained through visitation, video calls, phone calls or correspondence. This Chapter explores the benefits and challenges with these methods. It recognises that visitation can be traumatic and unpleasant for children when it is not conducted properly and makes recommendations for child-friendly policies and practices. It recommends extending time limits on phone calls and making them free for families. It also explores options to make technology more accessible—for example, improving and expanding In-Cell instant messaging technology.

Chapter 8: Supports in Victoria for children affected by parental incarceration

Proper and timely support can help reduce the risk of poorer outcomes for children impacted by parental incarceration. This Chapter canvasses which supports are required to protect against the risks outlined in Chapter 2.

It also considers the support sector in Victoria currently. While there is no clear government leadership supporting children impacted by parental incarceration, there are a number of positive initiatives happening in the non-government space and outstanding organisations working effectively in the field. Non government organisations are working both in prisons (for example, supported visitation or parenting programs) and outside of prisons (youth mentoring and specialised counselling). There are also pre- and post-release supports which can help children facing reunification with their parents. This Chapter highlights the need for greater recognition and funding in the sector and calls on the Victorian Government to support capacity-building through longer-term contracts, more training and better access.

This Chapter makes key recommendations about embedding support services for children into the justice system to ensure that children are protected against the harms of parental incarceration and are no longer made invisible victims of the justice system.

Findings and recommendations

2 Impacts of parental incarceration

FINDING 1: Parental incarceration is an adverse childhood experience due to its traumatic nature. Like other adverse childhood experiences, parental incarceration can interrupt childhood development and have detrimental impacts on emotional and social wellbeing. 23

FINDING 2: Children exposed to parental incarceration have a greater risk of experiencing adverse mental and physical health outcomes due to trauma, a lack of appropriate healthcare, or both. 26

FINDING 3: Carers supporting children of incarcerated parents are often left with minimal guidance or emotional and financial support. 29

FINDING 4: Separating Aboriginal children and parents due to incarceration can disrupt connection to culture, land and family. Removal of children from communities into out of home care, particularly into non-Aboriginal care placements, can perpetuate the impacts of historic trauma. 30

FINDING 5: Incarceration can be intergenerational when families and children do not receive timely and appropriate support. Cycles of trauma and disadvantage typically contribute to intergenerational incarceration. 32

3 Reducing harm by reducing incarceration

FINDING 6: While some data concerning parental incarceration is collected by Government agencies, this data is either not extensive or not sufficiently publicly available. As a result, it is difficult to know how many children are affected by parental incarceration. Estimates include that half of all people incarcerated in Victoria (3,500 people) are parents, and that 45,000 Victorian children will experience parental incarceration at some point in their childhood. 35

FINDING 7: Based on overall rising incarceration figures, it is likely that the number of parents incarcerated in Victoria is rising. 36

FINDING 8: Women, particularly Aboriginal women, are the fastest growing cohort in Victoria’s prisons. The reverse onus provisions of the *Bail Act 1977* (Vic), which has led to increases in remand rates, are contributing to this rise.

38

FINDING 9: Poor responses to family violence can lead to increased incarceration of mothers in particular, therefore increasing the risk of harm to children. The Committee reaffirms the finding and recommendations it made on this issue in its report *Inquiry into Victoria’s criminal justice system*.

39

FINDING 10: Reducing incarceration of parents can reduce the associated risk of harm to children. Methods for reducing incarceration generally—such as addressing the social determinants of offending behaviour, changes to bail laws, and alternatives to custodial sentencing—can therefore contribute to reducing the risk of harm to children. When considering alternatives to custodial sentencing, there must be a balance between community safety and protecting the interests of the child or children of offenders.

44

RECOMMENDATION 1: Legislative reform should be enacted to reduce the growing prison population in Victoria. This can include:

- addressing the social determinants of offending behaviour
- in line with the Committee’s recommendation in its report *Inquiry into Victoria’s criminal justice system*, reviewing the operation of the *Bail Act 1977* (Vic) and parole system, drawing on previous reviews by the Victorian Law Reform Commission and former Supreme Court judge Paul Coghlan, with a view to amendments to simplify the bail tests, make presumptions against bail more targeted to serious offending and serious risk, and ensure that decision makers have discretion to consider a person’s circumstances when deciding whether to grant bail or parole.
- using non-custodial sentencing options where appropriate, noting the need for community safety.

44

FINDING 11: New Zealand has made significant inroads into reducing their prison population without compromising the safety of the community.

47

RECOMMENDATION 2: That the Victorian Government engage with the New Zealand Government to explore measures which have been successful in reforming the justice system in New Zealand and reducing incarceration rates in a safe and sustainable way to support the Committee’s Recommendation 1.

47

4 Government needs to lead and coordinate support efforts

FINDING 12: No Victorian Government department, agency or unit has responsibility for leading or coordinating the support response for children affected by parental incarceration. 50

FINDING 13: Implementation of the Bangkok Rules would enhance the legislative framework available to protect vulnerable young people affected by parental incarceration. 55

FINDING 14: Stakeholders believe that there are international agreements and Victorian legislative frameworks that obligate the Victorian Government to support children affected by parental incarceration. 56

FINDING 15: Organisations that provide support for the children of parents affected by incarceration are calling for Government leadership to better serve their work and the children they support. 57

FINDING 16: Government leadership and coordination of support and services for children affected by parental incarceration is needed. A lack of coordination leads to various negative outcomes. These include ad-hoc provision of services in which people fall through the cracks and are left to seek support themselves, often while overcoming significant barriers. The result is an environment in which many children and families in need of support do not receive it. 63

FINDING 17: Various models for Government leadership and coordination to support children affected by parental incarceration were presented to the Committee. Some focussed on a lead Government department or agency supported by inter-departmental cooperation. Others focussed on the importance of inter-departmental cooperation, without a strong desire for a lead agency. 65

FINDING 18: To provide effective leadership and coordination of support services for children affected by parental incarceration, responsibility for this vulnerable cohort should be assigned to a government body. A unit, branch or agency within a department should lead and coordinate work across other departments and agencies as appropriate. The coordinating body should retain overall responsibility for advocating for and supporting this cohort. 65

FINDING 19: The Department of Families, Fairness and Housing, with its existing expertise and mandate around supporting children with complex needs, is considered as best placed to lead the support response for children affected by parental incarceration.

67

FINDING 20: In leading services for children affected by parental incarceration, the Department of Families, Fairness and Housing should adopt a coordination model whereby services are delivered by service organisations with relevant experience and expertise. As part of the remit, the Government must provide adequate data, funding, data collection and other coordinating activities to allow service organisations to effectively support these children.

69

FINDING 21: Including meaningful engagement with children affected by parental incarceration and their families in the Government's process for designing and delivering an improved system for supporting their needs is an important part of creating a more effective system.

70

RECOMMENDATION 3: That the Victorian Government consider establishing a dedicated unit, branch or agency within the Department of Families, Fairness and Housing which has a specific mandate to respond to children and families of people affected by parental incarceration. This body should lead a cross-departmental response framework responsible for funding and coordinating the provision of specialist family service and social supports. This system should:

- be designed in consultation with lived experience advocates
- be anchored in and led by the Department of Families, Fairness and Housing to ensure existing social support infrastructure can be utilised
- have a specific remit to coordinate support for the families of people who are incarcerated before, during and following their incarceration by working with and through service organisations—including non-government service organisations—that directly engage with impacted families to deliver the most appropriate forms of support.
- have extensive data collection and research capabilities, or fund such capabilities amongst service organisations—including non-government service organisations—to inform ongoing policy decisions and supports.
- provide funding to service organisations—including non-government service organisations—for protective supports to mitigate short-term and long-term impacts of family member incarceration, including therapeutic, education, or social supports.

71

5 Bringing children into view

FINDING 22: Data about children affected by parental incarceration is not collected or shared in a way that supports effective services for these children. This negatively impacts the ability to plan, fund, deliver and evaluate services. **75**

FINDING 23: Data regarding children affected by parental incarceration has been effectively collected and shared before in New South Wales. **77**

FINDING 24: A lack of adequate data about children affected by parental incarceration for Aboriginal communities compounds difficulties tackling issues faced by Aboriginal Victorians, such as overrepresentation in prisons and the child protection system. **78**

FINDING 25: Self-determination is an important part of providing effective support services to Aboriginal Victorians. Upholding Indigenous Data Sovereignty and Indigenous Data Governance principles can contribute to self-determination in data collection and use regarding children affected by parental incarceration. **78**

FINDING 26: Limited data is collected about the children of parents affected by parental incarceration in Victoria. There is a lack of formal requirements for government agencies to collect such data and it is not collected in a systemic way. **79**

FINDING 27: Corrections Victoria has processes for collecting data about the parental status of people entering and exiting incarceration. However, criticisms of how the processes are implemented along with the lack of meaningful data making its way to service organisations and academics indicate that this data is not collected or shared adequately. **82**

FINDING 28: Evidence to the Committee indicates the child protection system is not systemically recording when a child is affected by parental incarceration. This restricts the system's ability to appropriately support these children. **83**

FINDING 29: Improved data collection can inform better service delivery by providing insight into the number, location, situation and needs of children affected by parental incarceration. It would also allow for improved program evaluation to ensure supports are delivered effectively and efficiently.

84

FINDING 30: To inform effective responses, system-level data about children affected by parental incarceration needs to be collected by the Victorian Government. This requires the involvement of agencies across the criminal justice system—including Corrections Victoria and Victoria Police—as well as the Department of Families, Fairness and Housing. Non-government service providers may also play a role in the collection of data.

87

FINDING 31: While Government involvement in data collection is necessary to ensure comprehensive data collection, there is a risk that a lack of trust in Government and the justice and corrections systems in particular will weaken data collection and therefore services to children affected by parental incarceration.

87

FINDING 32: There may be privacy concerns to be addressed in designing an effective system for data collection aimed at improving support for children affected by parental incarceration. An information sharing scheme for this specific purpose may be an appropriate solution.

89

RECOMMENDATION 4: That the Government consult with the Office of the Victorian Information Commissioner about privacy concerns when designing a data collection and sharing system to support children affected by parental incarceration. As part of this consultation, the Government should consider implementing a specific purpose information sharing scheme, as has been done previously in Victoria.

89

RECOMMENDATION 5: That the Victorian Government implement systemic data collection processes to identify the number of children impacted by parental incarceration, including the children of parents on remand. Along with the number of children, data such as location, family situation, child wellbeing and other data which can inform support services should be collected. In doing this, the Government should consult with relevant Government agencies and existing service providers—including non-government organisations—about how best to collect such data, noting in particular the tension between the need for corrections and justice system involvement to ensure complete data, and the lack of trust in those systems that may hinder data collection. This data should:

- be meaningful and broader than the collection of statistics
- be guided by a clear established minimum data set for courts, Corrections Victoria, Victoria Police, Child Protection services, other Government agencies and non-government service providers that interact with children affected by parental incarceration
- be used to monitor and respond to the wellbeing of children affected by parental incarceration
- be routinely collected, de-identified and made available to service providers and other interested parties to inform policies and services
- be used to understand the interaction between parental incarceration and the presence of Child Protection services
- using an Indigenous Data Sovereignty process, identify a specific Aboriginal-led evidence base to improve understanding and informing effective policy responses.

This data should be used and shared to inform significant research to identify any gaps in support for families and children affected by parental incarceration.

90

6 Better considering children in justice decisions

FINDING 33: The interests of children are rarely considered at various points of the justice system. A lack of guidelines means that implementing practices that consider children's interests are left to individuals, rather than being systemically implemented.

93

FINDING 34: The Committee's evidence indicates that policies and processes around arrest in Victoria are discretionary and do not include adequate consideration of children affected by the arrest of their parent. In this way they are not facilitating 'child-aware' or 'child-sensitive' arrests, and thus risk causing further harm to children of arrestees.

98

RECOMMENDATION 6: That Victoria Police, in conjunction with the Victorian Government, as a matter of priority, develop and implement protocols to incorporate child-aware procedures and practice at the point of and in the aftermath of arrest. This should include:

- providing training to Victoria Police officers to ensure child-sensitive arrest procedures
- developing systems to support children in a trauma-informed way during and immediately after arrest
 - updating the Victoria Police Manual to implement mandatory procedures and practices including:
 - identifying whether a child is likely to be present at an arrest
 - training on child-aware procedures to identify signs of a child’s presence
 - enquiring after and responding to the needs of children of arrestees, whether or not they are present at the arrest
 - working with families and arrestees for care planning of their children.

98

FINDING 35: While there is provision to allow courts to consider the impact on children and family in sentencing a person, in practice there is a high bar to satisfy this test, whereby the circumstances must be considered ‘exceptional’. Evidence to the Committee indicates this is rarely proven.

100

FINDING 36: Stakeholders called for allowing courts to consider the impact of parental incarceration on children in sentencing without the need to prove it would cause ‘exceptional’ hardship or circumstances. One suggested way to facilitate this is requiring impact statements that describe the effects incarceration would have on a defendant’s children and family as part of routine court procedure.

101

RECOMMENDATION 7: That the Victorian Government make changes to better consider children’s interests and ongoing welfare when sentencing parents or caregivers. This may include:

- legislating or requiring that courts must consider childcare responsibilities as part of sentencing
- requiring statements describing the impact of sentencing on a person’s children and family to form part of court proceedings
- other mechanisms for ensuring children’s interests are recognised at court.

101

FINDING 37: Court appearances can be an opportunity for children and families at risk of being affected by parental incarceration to access support services. However, such services are limited in Victoria. A positively evaluated pilot program run by VACRO at the Geelong Magistrates' Court has not received funding to continue or be expanded.

102

RECOMMENDATION 8: That the Victorian Government provide better access to support for children and families that may be affected by parental incarceration as part of court appearances. Where possible these supports can be delivered through linking with existing community services. In implementing this the Government should be informed by the former Family Links program at the Geelong Magistrates' Court.

103

FINDING 38: Prisons have a historical cultural focus on punishment and security. This can be a barrier to embedding programs that are aimed at child wellbeing, despite evidence that such programs can contribute to a better prison environment. Restricting visits with children is a particular example of decisions being made in Victorian prisons based on punishment rather than child wellbeing.

104

RECOMMENDATION 9: That the Victorian Government enact policies that provide for greater consideration of the interests of incarcerated people's children in Victorian prisons. This should include, but not be limited to, avoiding the practice of restricting visits with children as a punitive measure.

104

FINDING 39: Systemic changes are required to ensure decisions across the justice system better consider the interests of children of parents in contact with that system. Moves towards 'child-friendly' rather than 'child-blind' justice can be a positive step towards this goal. Rights-based approaches, such as the *African Charter on the Rights and Welfare of the Child*, can help ensure that children's rights are embedded across all stages of the justice system.

108

FINDING 40: Systemic changes are required to ensure that children are visible and considered throughout their parent's interactions with the justice system. These changes must be complemented by the provision of appropriate and timely supports that respond to and mitigate the impact of parental contact with the justice system.

108

RECOMMENDATION 10: That the Victorian Government, in consultation with lived experience experts, conduct a review of the criminal justice system to identify various points at which the interests of children intersect. These intersections should be assessed to identify opportunities to reduce harm to affected children, and inform new policies, practices and legislation to better consider the interests of affected children. This includes decisions made by:

- members of Victoria Police
- bail justices and other bail decision makers
- courts
- corrections officers
- other relevant professionals.

109

FINDING 41: Existing cultures in departments and agencies that interact with children affected by parental incarceration may be hindering efforts to implement changes that better serve the interests of affected children. These cultural barriers will need to be addressed in order to make effective change that helps these children.

111

FINDING 42: Specific education and training for people interacting with children affected by parental incarceration is needed. This training can support the justice system to better consider the interests of children.

112

FINDING 43: Specific training to understand and respond to the experiences of children affected by parental incarceration can improve service provision.

113

RECOMMENDATION 11: That the Victorian Government develop a training module to educate professionals working with children in education, healthcare, and any other relevant sectors about the effects of parental incarceration.

113

FINDING 44: Children and families affected by parental incarceration have expertise about the impacts and supports required before, during and after incarceration. Any service or policy design impacting children affected by parental incarceration would be best informed by being developed in consultation with this cohort.

114

RECOMMENDATION 12: That the Victorian Government actively and continuously consult with children and families affected by parental incarceration in designing and implementing appropriate systemic changes and improved supports for this cohort.

114

FINDING 45: Evidence to the Committee indicated other jurisdictions in Australia and overseas have developed policies, protocols, programs, and training which can help ensure the interests of children are considered at various points of the justice system. While the Committee has not had the opportunity to fully assess these programs, it presents them to the Government to inform policy and practice development in Victoria. 117

RECOMMENDATION 13: That the Victorian Government consider the lessons from the policies and programs throughout Australia and overseas presented in this report in considering the interests of children who may be affected by parental incarceration. 117

FINDING 46: Being pregnant while incarcerated risks various poor maternal and neonatal outcomes. Antenatal, postnatal and neonatal care in Victorian prisons is contracted to a ‘correctional health facility’, which may negatively impact the level of care provided compared to that provided in the community. 118

RECOMMENDATION 14: That the Victorian Government ensure the level of antenatal, postnatal, and neonatal care provided in Victorian prisons is on the same level as that provided in the community. This may require moving away from contracted health services to services provided by Victorian Government departments. 119

FINDING 47: Restraints have been used on pregnant women against relevant guidelines in Victorian prisons. The Committee heard concerns this practice may still be occurring. 119

RECOMMENDATION 15: That the Victorian Government ensure all relevant guidelines regarding the use of restraints on pregnant women are being complied with in Victorian prisons. 120

FINDING 48: Programs that allow young children to live with their mothers in prison can mitigate the risk of harm posed by separation. However, it is important that these programs are designed to reduce the potential harms to children posed by the institutional prison environment. 121

FINDING 49: There is some indication that it is difficult for Aboriginal mothers to access programs that allow young children to live with their mothers in prison across Australia, including the Living with Mum Program in Victoria. 122

FINDING 50: The Living with Mum Program allows some young children to stay with their mothers at Dame Phyllis Frost Centre and Tarrengower Prison. The Committee heard praise, but also criticisms of the Program and suggestions for improvement. The Committee's current Inquiry has not analysed these criticisms in depth. 123

RECOMMENDATION 16: That the Victorian Government consider the criticisms and suggested improvements to the Living with Mum Program brought to this Inquiry, and take appropriate action, and further consider implementing regular, independent reviews of the Living with Mum Program to ensure the safety and wellbeing of both the children and mothers involved. 123

FINDING 51: Incarcerating pregnant women and parents of young children can have particular harms for the children impacted by that incarceration. Stakeholders have called for avoiding incarcerating pregnant women and parents of infants and young children. 124

RECOMMENDATION 17: That the Victorian Government aim to reduce the risk of harm to children affected by the incarceration of pregnant women and parents of young children by:

- where possible and appropriate, avoiding remand for non-violent offenders who are pregnant women and parents who are primary caregivers of young children
 - using custodial sentences for pregnant women or breastfeeding mothers only as a last resort.
- 124

7 Facilitating and maintaining meaningful family connections

FINDING 52: Distance and travel to prison is a significant impediment to regular visitation and contact. Consideration should be given to how a person can be incarcerated at the closest appropriate facility to their children to support regular visitation and meaningful contact. 133

FINDING 53: The administrative process of Restricted Access statuses is a significant barrier for children and parents maintaining contact. Consideration should be given to balancing safety with the child's right to contact with their parent. 138

RECOMMENDATION 18: That Corrections Victoria reviews the policy and implementation of Restricted Access statuses to appropriately balance the safety of the child with the rights and wishes of the child to maintain contact with their parent. Policy should require that applications are dealt with in a timely manner, with regular progress updates provided. **138**

FINDING 54: Parents in prison do not consistently have their status as a parent or carer recognised. There are significant challenges for parents trying to maintain their relationships with children, and it is very difficult for parents to have a role in planning their child's care while incarcerated. **143**

RECOMMENDATION 19: That the Victorian Government ensure there are straightforward and accessible opportunities for parents to engage in their child's care during the parent's incarceration. **143**

FINDING 55: Security processing procedures at prisons are not currently suitable for children visiting their parents. These processes can be unfriendly, hostile or traumatising for children visiting family members in prison. **151**

FINDING 56: Visitation in Victorian prisons does not currently sufficiently account for children. More child-centric design and practices are needed to provide a safe, engaging and enriching environment for children visiting parents in prison. **157**

FINDING 57: Box visits are associated with levels of distress in children. Other methods of safe visitation with the child's best interests in mind should be considered before resorting to box visits. **159**

RECOMMENDATION 20: Child-friendly visiting facilities and practices should be implemented in all prisons throughout Victoria. This includes:

- making child-friendly spaces available, preferably external to the main prison campus
- child-friendly spaces should include bathrooms, changing tables and spaces for breastfeeding
- making toys, play areas and appropriate furniture available
- ensuring staff members working in visitor centres are welcoming and can conduct security checks of children in an appropriate and friendly way
 - searches should not be conducted on children under the age of 16, unless there are reasonable grounds that suggest a search is required
- ensuring that visitation hours extend to after-school visits or other child-friendly visiting times
- providing activities for children and their parents to engage in a positive and supported way
 - supported programs for visitation should be implemented and readily available at all correctional centres.

159

FINDING 58: The cost of and time limits on prison phone calls restrict meaningful connections between children and their parents.

170

FINDING 59: Written correspondence (letters, emails and In-Cell technology) can be an important method of communication for children to engage with their incarcerated parents. Written correspondence allows both children and parents to write at a time that suits them, and allows both parties to think through what they would like to say.

172

RECOMMENDATION 21: That the Victorian Government work to improve In-Cell technology with the aim of rolling it out across more prisons in Victoria, where appropriate. In-Cell instant messaging should be made available for free beyond one message and one response per day.

172

RECOMMENDATION 22: That, in recognition of the child’s right to maintain parental contact, regular opportunities for meaningful contact are available to children with parents in prison. This includes:

- not revoking visitation as a punitive measure
- where possible, ensuring that parents are in a facility close to their family
- facilitating regular face-to-face visits, supplemented with phone calls and video conferencing
 - phone calls should be made free to all people incarcerated
 - phone calls between parents and children should have extended time limits
 - phone calls between parents and children should not be recorded, unless it is deemed necessary for security or safety reasons
 - provisions for live chat functions across all Victorian prisons should be explored. **172**

8 Supports in Victoria for children affected by parental incarceration

RECOMMENDATION 23: That the new agency/work unit in Recommendation 3 act as a coordination point with adult and family services—such as Corrections Victoria, Department of Justice and Community Safety and the Department of Families, Fairness and Housing—and a referral point to child-centric, trauma-informed services, including:

- individual therapy
- family counselling
- youth mentoring
- healthcare (including dental)
- other necessary services. **174**

FINDING 60: Throughcare models of care are best practice to ensure wraparound support is provided to people in prison and their families. Throughcare models can support family relationships during incarceration, support pre-release planning and assist people to transition back into the community. **176**

FINDING 61: Individual therapy or counselling provided by trauma-informed practitioners can support children exposed to parental incarceration by:

- providing a safe space to navigate complex emotions
- addressing harmful coping mechanisms and developing positive coping mechanisms
- addressing any mental health concerns.

180

FINDING 62: Family therapy programs can be an important mechanism to improve and support healthy relationships during incarceration. Programs are particularly important pre- and post-release, when they can help families navigating shifting dynamics.

183

FINDING 63: Youth mentoring programs can help to reduce the negative social and emotional impacts of parental incarceration. Programs can help by providing positive role models and demonstrating positive behaviours.

186

RECOMMENDATION 24: That the Victorian Government make ongoing individual therapy, family counselling and youth mentoring programs available and accessible to all children and families from the point of incarceration including provision for adults who were affected by parental incarceration as children to receive financial support for therapy. Organisations who provide these services should be linked into the proposed new work unit (Recommendation 3) to ensure that referrals to services can be made from a single contact point.

187

RECOMMENDATION 25: That the Victorian Government provide sustainable ongoing funding to existing family counselling programs and youth mentoring programs to ensure capacity is commensurate with the need in the community. These programs should have regular evaluations to ensure that they are meeting the needs of participants.

187

FINDING 64: Supported play and enhanced visitation initiatives help children and parents in prison bond in a natural and meaningful way.

193

RECOMMENDATION 26: That the Victorian Government funds community organisations to provide regular supported play and enhanced visitation initiatives in all Victorian prisons.

193

FINDING 65: Parenting programs for parents in prison can improve parenting capacity and support better parent-child relationships during incarceration and post-release. However, programs are not readily accessible to all parents who wish to participate. 198

RECOMMENDATION 27: That the Victorian Government fund an extension of the parenting programs across all Victorian prisons and youth justice precincts commensurate with need and demand. This includes:

- making programs available within a reasonable timeframe (under three months)
- making shorter programs available to people on remand
- making all programs available for people who will be incarcerated for at least six months. 198

FINDING 66: The interests of children are not consistently incorporated into pre-release planning. Children, carers, and case managers and relevant professionals should be incorporated into pre-release discussions to ensure that children's interests are protected. 202

RECOMMENDATION 28: That the Victorian Government implement Recommendation 91 of the report *Inquiry into Victoria's criminal justice system* as a matter of priority. 204

FINDING 67: There is insufficient government funding available to organisations supporting children and families affected by incarceration. More funding is needed on a sustainable long-term basis to allow organisations to provide a level of support commensurate with the need in the community. 208

FINDING 68: Community organisations have the capacity to maintain a vital systems role receiving referrals from first responders and supporting families affected by incarceration. The organisations are currently unable to do this due to the lack of sustainable and long-term funding. 209

FINDING 69: Community organisations are struggling to retain staff members due to uncertain employment conditions, a lack of pay parity and competition within the sector. 210

RECOMMENDATION 29: That the Victorian Government develop a long-term sustainable funding model to resource community organisations supporting children affected by parental incarceration and their families. This funding should be sufficient to:

- allow successful existing programs to expand across all Victorian prisons
- reflect the overrepresentation of Aboriginal Victorians in the justice system
- permit organisational expansion to meet the demand in the community including:
 - sufficiently resourcing organisations to act as a point of referral
 - implementing successful pilot programs on an ongoing basis
 - ensuring that programs are evaluated on a regular and ongoing basis
- resource organisations with appropriate staff members who can be retained on long-term contracts or on an ongoing basis
- develop and train additional therapeutic staff and informed support workers.

210

What happens next?

There are several stages to a parliamentary inquiry.

The Committee conducts the Inquiry

This report on the Inquiry into children affected by parental incarceration is the result of extensive research and stakeholder consultation by the Legislative Council Legal and Social Issues Committee at the Parliament of Victoria.

We received written submissions, spoke with people at public hearings, reviewed research evidence and deliberated over a number of meetings. Experts, government representatives and individuals expressed their views directly to us as Members of Parliament.

A Parliamentary Committee is not part of the Government. Our Committee is a group of members of different political parties (including independent members). Parliament has asked us to look closely at an issue and report back. This process helps Parliament do its work by encouraging public debate and involvement in issues. We also examine government policies and the actions of the public service.

You can learn more about the Committee's work, including all of its current and past inquiries, at: <https://www.parliament.vic.gov.au/lpic-lc>.

The report is presented to Parliament

This report was presented to Parliament and can be found at: <https://new.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-children-with-imprisoned-parents/reports>.

A response from the Government

The Government has six months to respond in writing to any recommendations we have made. The response is public and put on the inquiry page of Parliament's website when it is received at: <https://new.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-children-with-imprisoned-parents/reports>.

In its response, the Government indicates whether it supports the Committee's recommendations. It can also outline actions it may take.

We should not support children with imprisoned parents to reduce the risk of reoffending but because it is the right thing to do.

So in identifying positive practice ... you will face a number of risks. One of those is the tendency to see children and families as a tool in mitigation or as a tool to reduce reoffending. Justice Albie Sachs, in the landmark *S v M* case in South Africa, said:

Every child has his or her own dignity ... he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.

Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 2.

I just do not think there is enough of an understanding of the impact of imprisonment on children and the intergenerational consequences of that, that we are going to pay the price for many, many years to come in terms of the rate of incarceration that we have now ... That is going to have intergenerational effects, and it takes a long time to put in place supports that are actually going to negate those impacts.

Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 35.

In March 2022, the Legislative Council Legal and Social Issues Committee tabled its report, *Inquiry into Victoria's criminal justice system*. The Inquiry made significant findings about the harm caused by overincarceration and disadvantage, and the difficulties encountered by families moving through the criminal justice system. The Committee quickly came to understand that there was an entire cohort of secondary victims of crime—the children of parents who have been incarcerated.

These children are often invisible to the justice and corrections systems. They are not considered in the decisions that directly affect their lives. Their rights are overlooked when punitive measures are taken against their parents. And the Committee heard time and again they are often vulnerable, confused, and isolated.

The Committee began this Inquiry without a clear picture of the mechanisms in place throughout the system to support children affected by parental incarceration. At the conclusion of the Inquiry, the Committee has learned that there has been a sustained systemic failure to address the needs of these children. This report addresses key systems changes that are required for immediate improvements—but recognises, as did the Committee's report on the criminal justice system, that there is much work to be done in relation to the justice system for years to come, as well as to ameliorate the disadvantage and inequity that can lead to incarceration.

This Chapter outlines the process that the Committee undertook to complete the Inquiry. It touches on existing reports and inquiries in Australia about parental

1

incarceration, and outlines some of the overarching themes of the Committee's recommendations.

1.1 About the Inquiry

1.1.1 The report

This report begins by highlighting the impacts of parental incarceration for children, who the Committee heard are an invisible victim of crime (Chapter 2). At the forefront, the report emphasises the harm caused by incarcerating parents and interfering with a child's right to stay with their family. It outlines the need to reduce parental incarceration (Chapter 3) and develop a coordinated systems response to support affected children (Chapter 4). The report addresses the need to bring into view children affected by parental incarceration (Chapter 5) and canvasses options to embed the best interests of the child at all points that they may intersect with the adult criminal justice system (Chapter 6). The final chapters of the report explore options for facilitating and maintaining meaningful connections during a parent's time in prison (Chapter 7) and makes recommendations about the supports required to ensure that these children have the best possible chance to succeed (Chapter 8).

The report highlights the experiences of children and adults who have had parents in prison and contains insights from parents who spoke to the Committee from prison. As such, the Committee notes that the report may contain sensitive or confronting material, particularly for those who have experienced parental incarceration.

1.1.2 Name of the Inquiry

The name of the Inquiry was changed from the 'Inquiry into children of imprisoned parents' to the 'Inquiry into children affected by parental incarceration' on 30 March 2022. This change was made as a response to feedback from stakeholders with lived experience, and other stakeholders who worked closely with this cohort. The Committee heard that the impact of parental incarceration was not simply constrained to the point in time that a parent was in prison—instead, the impacts of parental incarceration began prior to imprisonment and continued long after.

1.1.3 Conduct of the Inquiry

The Committee undertook a comprehensive evidence-gathering process for this Inquiry which included:

- desktop research
- submissions
- public and closed hearings
- site visits to prisons

- a stakeholder workshop
- a jurisdictional visit to New Zealand (see Appendix A for a summary of evidence received).

Submissions

The Committee received a total of 43 submissions and granted confidentiality to two of these submissions.¹ Submissions were received from a cross-section of stakeholders, including non-government organisations working in the sector, research and academic organisations, legal centres and professionals, carers, and people with lived and living experience of parental incarceration.

Despite a number of requests, the Victorian Government did not make a submission to this Inquiry.²

Public hearings

The Committee held 17 public hearings over three days with more than 30 representatives. An additional closed hearing was held for people with lived experience of parental incarceration. Hearings took place in Melbourne and via Zoom. The Committee would like to express its gratitude for the commitment and flexibility shown by witnesses as COVID-19 health and safety protocols affected some hearings.

Site visits

In addition to hearings and submissions, the Committee visited four prisons to speak to incarcerated parents about their experiences. These were:

- Dame Phyllis Frost Centre
- Ravenhall Correctional Centre
- Loddon Prison
- Malmsbury Youth Justice Precinct (Senior Campus).

The Committee had also hoped to arrange to visit mothers at Tarrengower Prison. However, due to health and safety lockdowns, the visit was unable to proceed.

The Committee would like to express its appreciation to Corrections Victoria for facilitating the visits and the General Managers at these prisons for setting up meetings and discussions. It also thanks everyone who participated in discussions at each of the prisons. The discussions provided great insight into the difficulties faced by parents trying to maintain contact with their children from prison. In addition, many

1 The identities of confidential submitters and/or the content of their submissions were not made public on the Committee's website. Confidential submissions inform the Committee's understanding of this issue but are not referenced substantively in this report.

2 A submission was received from the Commission for Children and Young People.

of the participants spoke about their own experiences with parental incarceration and expressed their hopes that this Inquiry and its subsequent recommendations will make a difference to their children.

Many of those who the Committee spoke to in prisons agreed to allow their insights to be used in this report. The Committee has used the first name of those people when quoting their experiences in the report.

Stakeholder workshop

On 23 May 2022, the Committee held a roundtable discussion with representatives from nongovernment organisations, service providers, and lived experience advocates. The roundtable provided an opportunity for the Committee to consolidate key recommendations based on the evidence to date. It allowed stakeholders to further refine priorities for the sector and culminated in a guiding principles document (Appendix D) which was then presented to the Committee.

The Committee passes its gratitude onto those who participated:

- Abigail Lewis, Senior Policy and Advocacy Manager, VACRO
- April Long, National Operations Manager, SHINE for Kids
- Hilary Glaisher, Policy Adviser, Safe and Equal
- Glen Fairweather, General Manager, Prison Fellowship Australia
- Lisa D’Onofrio, Community Arts Worker and Read Along Dads Facilitator
- Rachael Hambleton, lived experience advocate.

Jurisdictional visit to New Zealand

As part of the Terms of Reference for this Inquiry, the Committee was asked to consider which supports are available in other jurisdictions. From Monday 30 May 2022 until Thursday 2 June 2022, a delegation from the Committee travelled to New Zealand to hear about their practices identifying and supporting children affected by parental incarceration. The Committee was welcomed by many organisations and professionals including:

- Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti, Associate Minister of Education
- Honourable Justice Eivers, Commissioner for Children and Glenis Phillip-Barbara, Assistant Māori Children’s Commissioner and staff of the Commission
- representatives from the Department of Corrections
- Aiphany Forward-Taaua, Executive Director at Just Speak
- The New Zealand-Australia Parliamentary Friendship Group
- members of the Social Services and Community Select Committee

- members of the Justice Select Committee
- Maxine Gay, General Manager and a number of the team at Pillars
- representatives from the Storytime Foundation.

The Committee was privileged to travel to meet with so many knowledgeable and insightful people, particularly after a significant period of travel restrictions. The Committee was impressed to observe the inroads which New Zealand is making into the realisation of the goals of the Treaty of Waitangi. The Committee was also interested in the New Zealand Government's approach to reducing incarceration in a safe and sustainable way. The Committee believes that the Victorian government would benefit from looking more closely at the measures that have been undertaken to reduce incarceration.

1.1.4 The importance of lived and living experience

From the outset of the Inquiry, the Committee recognised the need to learn from people who had experienced parental incarceration during their childhood. The Committee heard early on that the stigma associated with parental incarceration would be a barrier for people participating in the Inquiry. Similarly, stakeholders flagged that the intergenerational nature of parental incarceration made it difficult to disclose experiences—some witnesses wanted to ensure that they respected their parent's right to privacy. Others had been silenced from speaking about their experiences for so long because of stigma that they could only face and describe their experiences in late adulthood and did so for the first time to the Committee.

To ensure that witnesses and participants could share their experiences in an informed way, the Committee received evidence from people over the age of 18. The Committee did receive some evidence from current children and young people who were consulted by stakeholders. For people with lived and living experience of parental incarceration, the Committee provided a range of options to engage, including:

- using pseudonyms or initials
- providing confidential evidence
- engaging via Zoom without a camera
- providing audio recordings.

The Committee was pleased that these options were used by different stakeholders, and thanks everyone who participated in whichever manner they felt comfortable with. In particular, the Committee would like to thank those with lived and living experience who spoke at public and closed hearings:

- Rachael Hambleton
- Clarisa Allen
- Holly Nicholls

- Leigh Pappos
- H (pseudonym).

For many of the participants, speaking to the Committee was the first time that they had opened up about their experiences with parental incarceration. The Committee commends the bravery shown by each of the participants and thanks them for their guidance, insights, and at times, painfully raw recollections.

Many of the testimonies were confronting. Participants spoke about being alone, confused and feeling abandoned by their family or the systems around them. They spoke about traumatising experiences at arrest and during visitation, and their struggles trying to find their way in life without any help to understand what they were going through. For a number of participants, their experiences of parental incarceration shaped—and continues to shape—their lives.

The Committee reiterates the significance of learning from people with lived experience and extends its deep gratitude to the participants who spoke to the Committee. It would also like to thank those who reached out but were not able to participate. Breaking the silence around being a child affected by parental incarceration goes a long way to reducing the isolation felt by children of incarcerated parents—the Committee commends the participants on standing up and making a difference for the next generation.

As discussed above the Committee also conducted site meetings in prisons in Victoria. Not surprisingly many of the inmates were themselves children of incarcerated parents. The Committee thanks them for sharing their insights and experiences.

1.1.5 Out of scope of the Inquiry

The Committee heard evidence about a number of issues which directly impact children affected by parental incarceration that were unable to be considered in great detail throughout this Inquiry. This includes:

- The disruptive and criminogenic nature of out of home care. The Committee made a number of recommendations about improving outcomes for children in mainstream and Aboriginal out of home care placements in its report *Inquiry into Victoria's criminal justice system*.³
- The impacts of exposure to criminal behaviour prior to a parent's incarceration. Childhood exposure to violence⁴ and people who offend⁵ is touched on in the report *Inquiry into Victoria's criminal justice system*.

³ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, pp. 122–123.

⁴ *Ibid.*, pp. 98–99.

⁵ *Ibid.*, pp. 128–130.

- The role of schools and educators in supporting children affected by parental incarceration.
- The extent of the emotional and social impacts of COVID-19 restrictions for families affected by incarceration from 2020 onwards.

1.2 Parental incarceration in Victoria

In Australia, there have been a handful of government reports and inquiries addressing the impact of parental incarceration on children. This includes:

- The 1997 report, *Inquiry into children of imprisoned parents*, by the Parliament of New South Wales Legislative Council Standing Committee on Social Issues.⁶
- The 2005 report for the South Australian Attorney-General's Department, *Children of prisoners project: Steering Committee's report to the Justice Cabinet Committee*.⁷
- The 2022 report by the South Australian Commissioner for Children and Young People, *Join the Dots: the impact of parental incarceration on children and young people*.⁸
- The 2022 report, *Inquiry into Support for children of imprisoned parents in New South Wales*, by the Parliament of New South Wales Committee on Children and Young People.⁹

Examples of other notable reports which touch on the issues of care for children of imprisoned parents include:

- The Queensland Productivity Commissioner's *Inquiry into imprisonment and recidivism* which made recommendations about additional supports for the children of imprisoned parents.¹⁰
- The Australian Law Reform Commission's *Pathways to Justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander people* which makes recommendations about support for Aboriginal children with incarcerated parents.¹¹

6 Parliament of New South Wales, Legislative Council Standing Committee on Social Issues, *Children of imprisoned parents*, July 1997.

7 South Australia Attorney General's Department, *Children of prisoners project: Steering Committee's report to the Justice Cabinet Committee*, Cabinet paper, 2005.

8 South Australian Commissioner for Children and Young People, *Join the dots: the impact of parental incarceration on children and young people*, report prepared by Helen Connolly, 2022. This report was also submitted to the Inquiry as *Submission 15, Attachment 1*.

9 Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022.

10 Queensland Productivity Commission, *Inquiry into imprisonment and recidivism*, Queensland Productivity Commission, online, 2019.

11 Australian Law Reform Commission, *Pathways to justice: inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples*, Final report no 133, Commonwealth of Australia, 2017.

- The Senate Standing Committees on Legal and Social Affairs *Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*¹² which notes the cost impacts of children losing a primary breadwinner in their household to incarceration.

Despite the impact of parental incarceration being identified as a social issue in Australia more than 25 years ago, the Committee has found no evidence of formalised government responses to support children affected by parental incarceration in Victoria.

1.2.1 Responsibility for children affected by parental incarceration in Victoria

In Victoria, there is no clear government department or body with responsibility for children impacted by parental incarceration. This is outlined in more detail in Chapter 4. However, the Committee notes that there are some departments who, to this point, are responsible for certain elements of care for this cohort.

At the beginning of this Inquiry, the Committee identified the following Ministers with some level of portfolio responsibility to children affected by parental incarceration:

- Attorney-General, responsible for the Department of Justice and Community Safety
- Minister for Corrections, responsible for Corrections Victoria
- Minister for Child Protection and Family Services, responsible for the Department of Families, Fairness and Housing
- Minister for Police, responsible for Victoria Police
- Minister for Education, responsible for the Department of Education and Training.

The Committee wrote to each of these Ministers to invite them to participate in the Inquiry, however apart from the Minister for Corrections who provided access to prisons and the support of Corrections staff, none of the Ministers accepted the invitation.

Support within the justice system and government institutions

Currently, support for parents in prison and their children is predominantly discretionary at some key points of the system. As noted by the Parliamentary Budget Office, legislation and workplace guidance denotes how police, magistrates, prison reception staff and teachers should account for children of incarcerated parents:

- Support for children at the point of a parent's arrest is at the discretion of the police officer.
- Support from the courts at the remand and sentencing stages is at the discretion of the presiding magistrate, judge and court personnel.

¹² Parliament of Australia, Senate Standing Committees on Legal and Constitutional Affairs, *Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*, June 2013, available at <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/index> accessed 28 February 2022.

- Support for parents and their children at the imprisonment stage is at the discretion of prison reception staff.
- Support for children in school is at the discretion of teachers.¹³

The limited guidance in place for these professionals is outlined at Table 1.1.

Table 1.1 Current Victorian framework of support for children affected by parental incarceration

Service	Point of contact	Relevant framework
Police	Arrest of parent	<ul style="list-style-type: none"> • Victoria Police Manual (2014) • Protocol between Child Protection and Victoria Police
Courts	Committal hearing Trial of parent Sentencing of parent	<ul style="list-style-type: none"> • <i>Bail Act 1977</i> (Vic) • <i>Sentencing Act 1999</i> (Vic) • <i>Crimes Act 1914</i> (Cth)
Prisons	Entry to prison Period of incarceration Post-release	<ul style="list-style-type: none"> • <i>Corrections Act 1986</i> (Vic) • <i>Children, Youth and Families Act 2015</i> (Vic) • <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic)
Schools	During and after parental incarceration	<ul style="list-style-type: none"> • <i>Children, Youth and Families Act 2015</i> (Vic) • <i>Wrongs Act 1958</i> (Vic)

Note: Prison services span the Department of Justice and Community Safety and the Department of Families, Fairness and Housing. Police and Courts are their own entities and schools are the remit of the Department of Education and Training.

Source: Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, Parliament of Victoria, East Melbourne, 2022, p 8.

More information about legislative provisions impacting the children of incarcerated parents is available at Chapter 4.

Non-government organisations

Most of the support offered for children affected by parental incarceration in Victoria is driven by non-government organisations. The Committee heard from a number of key organisations providing support in and out of prisons, some of which are set out in Table 1.2 below.

¹³ Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, Parliament of Victoria, East Melbourne, 2022, p. 8.

Table 1.2 Non-government organisations supporting children affected by parental incarceration in Victoria

Organisation	Purpose
SHINE for Kids	<p>SHINE for Kids was established in 1982 as the Children of Prisoners' Support Group following the release of the Children of Imprisoned Parents Report (commissioned by the Family and Children's Service Agency). SHINE works across New South Wales, Queensland, the Australian Capital Territory, Western Australia and Victoria. They support children from 0–18 years old with:</p> <ul style="list-style-type: none"> • mentoring • supported transport • casework and parenting support • onsite engagement facilities including Child and Family Centres • Aboriginal programs • education support • carer support.
VACRO	<p>VACRO was established in 1872 following the Royal Commission into Penal Establishments and Gaols. For over 150 years, VACRO has provided support to people leaving prison. In 1976, the service expanded to support children and families of people in prison. It remains Victoria's only specialist criminal justice reintegration service, and supports justice-affected families by providing, among others:</p> <ul style="list-style-type: none"> • family visits programs • Aboriginal cultural programs • family counselling • facilitated contact.
VACCA	<p>The Victorian Aboriginal Child Care Agency (VACCA) is a state-wide Aboriginal Community Controlled Organisation which was founded over 40 years ago. VACCA provides a number of supports for children and families affected by incarceration, including:</p> <ul style="list-style-type: none"> • Aboriginal family preservation and reunification responses • care planning • cultural strengthening • mental health support.
Prison Fellowship Australia	<p>In 1976, Charles Colson founded Prison Fellowship in the United States as a result of his own experience with incarceration. By 1981, Australia had developed Prison Fellowship Australia, a national Christian organisation which works to support people in prison and their families. Prison Fellowship Australia has a number of programs including:</p> <ul style="list-style-type: none"> • prison visiting • youth mentoring • Art from Inside • Sycamore Tree Project (restorative justice) • Camp for Kids (for children with incarcerated parents) • Angel Tree (Christmas gifts from people in prison).

Organisation	Purpose
Prison Network	<p>Prison Network is a Christian non-profit organisation which has been providing support to women in Victorian prisons, and their families, for over 75 years. It was established in 1946 by Myrtle Breen. Prison Network has a number of in-prison programs including:</p> <ul style="list-style-type: none"> • Craft and cooking, a program for women in Dame Phyllis Frost Centre • Fun with Mum, a weekly program with facilitated contact (and supported transport if required) • Fitness classes and sports (including team sports every 4–5 weeks) • Faith and life discussion group. <p>Prison Network also runs programs to support the children of mothers in prison, including:</p> <ul style="list-style-type: none"> • Family support (follow up support for carers and families, assistance with transport for prison visits) • adventure camps.
Friends of Castlemaine Library (FOCAL)	<p>The Read-Along Dads/Mums Program assists people in prison to stay in touch with their children in a meaningful way. Participants are recorded reading a book for their child which is later sent to the child along with a copy of the book. The child can then listen to their parent's voice and read along, helping to maintain the family connection. Additional benefits include improving people in prison's literacy levels and engagement in writing and craft activities.</p>

Source: Compiled by the Legal and Social Issues Committee from SHINE for Kids, Who we are, 2022, <<https://shineforkids.org.au/who-we-are/#:~:text=We%20began%20in%201982%20as,%2C%20ACT%2C%20WA%20and%20VIC.>> accessed 28 February 2022; VACRO, *Our history*, 2022, <<https://www.vacro.org.au/vacro-history>> accessed 4 July 2022; VACCA, *About*, 2022, <<https://www.vacca.org/page/about>> accessed 5 July 2022; Prison Fellowship Australia, *Our story*, 2022, <<https://prisonfellowship.org.au/our-story>> accessed 4 July 2022; Prison Network, *What we do*, 2022, <<https://www.prisonnetwork.org.au/our-work>> accessed 4 July 2022; Department of Justice and Community Safety, *Family engagement and parenting: programs and services guide*, available at <<https://files.corrections.vic.gov.au/2022-02/Family%20Engagement%20Programs%20and%20Services%20Guide.pdf>> accessed 13 April 2022, pp 12–16.

1.3 Outcome of this Inquiry

In this Inquiry, the Committee has identified a set of guiding priorities that should be enshrined at every point that a child intersects with the criminal justice system. These priorities are that:

- the best interests of the child must be central at all stages
- meaningful family connections should be facilitated
- there needs to be a line of sight over children affected by parental incarceration
- oversight and accountability should be assigned for this cohort
- training and professional development is imperative to help professionals involved with children affected by parental incarceration
- awareness is required to reduce stigma.¹⁴

To respond to this cohort, the Committee has recommended in Chapter 4 that the Victorian Government establish a singular work unit or agency within the Department of Families, Fairness and Housing to lead the response to children affected by parental

¹⁴ See Appendix D, Stakeholder roundtable discussion and outcomes

1

incarceration. The Committee believes that this work unit should act as a single point-of-contact to facilitate the provision of support to affected children at all stages of their parent's journey through the criminal justice system.

2

Impacts of parental incarceration

Beyond the practical implications there are emotional ones. To this day one of the largest portions of my wage is spent on therapy each year. I have struggled to find trauma-informed practitioners that are equipped to support the complex trauma that I have been left with. My parents were not able to provide a framework for further education or financial stability, and I will not benefit from intergenerational wealth. Crime is often seen as statistically hereditary. For much of my life it has felt like a contagion that I might not outrun. It is hard to fathom for me that I have not yet been in the back of one of those divvy vans that circled my teenage home.

Rachael Hambleton, Board Member, Flat Out, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 39.

Throughout the Inquiry, the Committee has heard evidence that parental incarceration has a detrimental impact on most, but not all, affected children. Before the Committee outlines the potential impacts of parental incarceration on children, it would like to emphasise that negative impacts for children are not inevitable. Children who experience a parent going to prison may be severely affected, but this can be reduced and even prevented by appropriate care and support.

People who have been affected by parental incarceration told the Committee about their fear—fear of going to prison despite doing nothing wrong, fear of telling people about their parents, fear of finding out something is inherently wrong with them. For those reading who are living with the impacts of their parent in prison, the Committee wants to make it clear that the risks outlined in this Chapter are just risk factors—they are not guarantees.

This Chapter spotlights the experiences of parental incarceration that have been shared with the Committee. It features the words of a number of courageous individuals who spoke about their experiences—some for the first time in their lives. The Committee thanks all the people who participated directly, or who spoke to community organisations and passed on their insights. The Committee hopes that lived and living experiences can be central to any policy developments moving forward, and reiterates that children and adults who experienced parental incarceration should be regarded as experts in the needs of the cohort.

This Chapter also outlines the empirical research associated with the impact of parental incarceration, including discussing the impact of trauma on young children and the nature of parental incarceration as an adverse childhood experience. It touches on the impacts to the family unit and addresses the need for change to prevent intergenerational trauma and incarceration.

2.1 Lived and living experiences of parental incarceration

2.1.1 Social and emotional impacts for children affected by parental incarceration

Whenever I talk to someone I feel as though they can see right through me and they know my history and they know that I am this stained human being. Sorry. It is like this marker you just cannot get rid of.

Leigh Pappos, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 6.

Throughout the Inquiry, the Committee heard varying accounts of parental incarceration from adults who experienced it as a child. The Committee also received accounts from current children, via their parents, carers, support organisations and researchers.

Notably the Committee heard, during prison visits, from prisoners whose own parents were incarcerated, and the ongoing trauma of that experience.

Though each experience of parental incarceration is different and unique, there were common themes raised by children and adults who had parents imprisoned when they were children: isolation, fear, anger, shame and guilt ‘by association.’¹

For children who witnessed their parent being arrested, there was a lot of fear. William, who experienced his father’s incarceration, told the Committee that witnessing the arrest was ‘the scariest thing that you go through when you’re a kid’.² Clarisa Allen, a young woman who experienced her father in jail, told the Committee about the impact of witnessing her father’s arrest, and how that trauma has stayed with her since.

My dad went to jail when I was four years old and my brother was five weeks old. I still remember the day they came and they took him. They barged through the door and they came running around and pushing us around. It was quite scary. I remember them smashing my guitar, and I remember smelling that wood from them smashing my guitar. Funnily enough, every time I smell wood now I think of my guitar getting smashed. But I remember it was just really scary—lots of screaming, lots of shouting.

Clarisa Allen, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 13–14.

Beyond the point of arrest, many children report anger, confusion and anxiety when their parents are incarcerated. Corey, a teenager who spoke with Dr Catherine Flynn’s research team, explained the impact of his mother’s incarceration on him.

I stopped eating, I got really depressed. I stopped everything except cricket. I hated school, even being there. My report was really bad. I didn’t wanna visit Mum—I was really angry with her for about four months for what she did. I wanted to punish her. I wanted her to think about what she’d done.

1 Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*.

2 William, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

There were some other kids at schools whose Mum was in jail too but I didn't wanna talk to them. I didn't wanna talk to anyone about any of this. I was too embarrassed. I just let it bottle up inside and then I'd take it out on other people. I would drink and fight and not be able to stop.

Corey, via Dr Catherine Flynn, Senior Lecturer, Director of Higher Degrees Research and Deputy Head of Department, Department of Social Work, Monash University, *Submission 27*, p. 14.

The Committee heard that experiences like Corey's—internalising shame and acting out—could often be a result of interrupted emotional development. This can manifest as difficulties regulating emotion, increased anger and violence, and withdrawing from friends and activities (explored further in Section 2.2.2).³

Holly Nicholls told the Committee about her struggles with aggression as a child due to the trauma she had experienced.

I never really felt safe, ever. I was always hypervigilant from all the trauma and watching my mum get really badly beaten all the time, so I had insomnia when I was little. And when I first came into contact with Prison Fellowship I was very antisocial and very aggressive because that was my safety mechanism. I actually ended up getting kicked out of the Prison Fellowship camp because I was very violent ...

Holly Nicholls, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 14.

A mother of a three-year-old told the Committee that watching her daughter 'suffering immensely' due to her father's incarceration was breaking her heart. The impact of separation was causing her daughter distress and contributing to aggressive behaviour.

[She] thinks her daddy has forgotten her and doesn't love her anymore. She can't understand where he is or why and hasn't been told. She believes daddy is working away in the bush with no phone reception, which is also hard for her to understand but better than thinking her dad is a bad person. Having no contact is making her emotional and quite aggressive. The challenge of trying to help her is debilitating plus heartbreaking watching her suffer.

Name withheld, *Submission 2*, p. 1.

The Committee also heard that these difficulties often extended to school and increased the likelihood of children disengaging from education. Sean, a young man who spoke to Dr Catherine Flynn's research team, talked about struggling to focus at school for a year before eventually dropping out.⁴ William told the Committee about being unable to sit still in school as he was constantly thinking about his father in prison and how his mother was coping alone.⁵ A number of adults who were children when their parents

³ Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 20; Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 30.

⁴ Sean via Dr Catherine Flynn, *Submission 27*, p. 14.

⁵ William, *Committee site visit*.

went to prison also spoke about teachers labelling them ‘naughty’ instead of trying to understand and support them.⁶ Children also spoke about being bullied or ostracised when their peers found out about their parents.⁷

I remember being bullied at school from when people were like, ‘You’ve got one parent. You don’t have your dad around. Like, ha-ha’, and also me not understanding, ‘Why are you saying that?’—not understanding why. This was our normal—to have our dad, to have one parent. That was our normal.

Clarisa Allen, *Transcript of evidence*, p. 17.

For many children, parental incarceration was accompanied by disruption to their schooling or accommodation. Rachael Hambleton told the Committee about only being able to attend school 30% of the time so that she could work and make money for the family.⁸ Leigh Pappos spoke about moving through 11 primary schools due to her parents’ lifestyles.⁹ Parents also gave evidence that they were required to pull their kids out of school and move them to different schools due to stigma or bullying.¹⁰

You develop behavioural issues, the teachers reprimand you. You’re going to detention all the time. You never tell your friends, you make stories up as a coping mechanism. You have to lie to fit in. Those are the lengths that children go to to minimise and make the experience better for others.

Aphiphany Forward-Taua, Executive Director, *Just Speak, Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 31 May 2022.

The New South Wales Parliament’s Committee on Children and Young People undertook an inquiry into Support for children of imprisoned parents in New South Wales, and found similar issues regarding disruption to schooling and housing insecurity. The report of the inquiry stated:

Children with imprisoned parents are also more likely to exhibit frequent school absence and difficulties concentrating, completing work and achieving academic success.

...

When a parent is imprisoned, household income can be reduced and the remaining parent may have a reduced capacity to work. This can lead to housing insecurity and an inability to meet essential household costs.¹¹

⁶ Ibid.; Holly Nicholls, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 16; Leigh Pappos, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 6.

⁷ See for example, Holly Nicholls, *Transcript of evidence*, p. 17; Clarisa Allen, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 17; Rachael Hambleton, Board Member, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 31.

⁸ Rachael Hambleton, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 8.

⁹ Leigh Pappos, *Transcript of evidence*, p. 5.

¹⁰ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 44; Nick, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

¹¹ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, pp. 2–3 (with sources).

In terms of housing, research has indicated that around two thirds of children who have a primary carer incarcerated move home.¹² For many children, this in itself was an unsettling experience. Some children spoke about feeling like a ‘burden’ when they moved in with grandparents, extended family or other informal care arrangements.¹³ Harry, who spoke to Dr Catherine Flynn’s research team, explained some of the difficulties moving in with his mother’s boyfriend and his daughter after his mum’s incarceration.

I only had to move next door to stay with Raymond, but it felt like a big move. Everything changed: the rules were different. Instead of being first in the shower, I’d have to wait for Kylie. That’s Raymond’s daughter. And she’d be in there for ages and sometimes I’d be late for school. Kylie was mean to me sometimes too. One time she was cooking cheese on toast and I wanted some too. I opened a new packet of bread because the old one only had the crust left. Kylie said, “Dad says we have to use all the bread before we open a new packet.” I told her I didn’t like the crust but she says, “You should be grateful.” It was only a piece of bread.

Harry, via Dr Catherine Flynn, *Submission 27*, p. 14.

Sean, who participated in the same research group, spoke about difficulties settling due to constantly changing accommodation.

We hadn’t talked about what would happen to me, it just kinda happened. I went to my dad’s but I couldn’t really stick it there: I didn’t get along with his girlfriend. So I moved about a bit, from dad’s, to nan’s, to friends’ houses. I didn’t like moving around. I couldn’t get settled and I couldn’t study at school properly. I kept going to school though for about a year, then I just stopped.

Sean, via Dr Catherine Flynn, *Submission 27*, p. 14.

Leigh Pappos told the Committee about how unstable housing led to severe traumas for both herself and her mother.

when my dad went to prison, which albeit was for a very short period of time, as I mentioned, we already lived in precarious housing. We were actually at that point not living in a caravan park; we were sharing with another family, which is not a great thing. I think when one parent or both parents go into prison children become very vulnerable to other people. Whilst we were in that property ... my mother was taken advantage of.

Leigh Pappos, *Transcript of evidence*, p. 6.

¹² Dr Catherine Flynn, Senior Lecturer, Director, Higher Degrees by Research Program and Deputy Head of Department, Department of Social Work, Monash University, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 24.

¹³ Corey, via Dr Catherine Flynn, *Submission 27*, p. 14.

The risk of traumas—like that experienced by Leigh and her mother—and other forms of disadvantage is increased fivefold for children affected by parental incarceration.¹⁴ This includes a greater risk of ending up in formal out of home care. As this Committee noted in its report *Inquiry into Victoria's criminal justice system*, out of home care is criminogenic and can greatly increase children's risk of entering the criminal justice system.¹⁵ Alternative care arrangements can also result in separation from siblings and friends.¹⁶ For Aboriginal and Torres Strait Islander children, informal or formal care arrangements can sever their connection to community and cultural identity, which can reinforce intergenerational trauma and cause significant grief (see Section 2.3).¹⁷

Outside of the direct emotional and social responses to a parent's incarceration, the Committee heard about environmental factors that caused additional stress for children. For some, it was hearing their parents or family members argue.¹⁸ For others, it was watching their parent or carer on the outside using unhealthy coping mechanisms to deal with their parent's incarceration.¹⁹

The impact of my father's imprisonment was destabilising our environment. We were already very destabilised, moving from suburb to suburb every six months, the impact of living a life that includes drug dealing. But when my father was away, this was exacerbated. Not only was he the 'head' of the family, but he kept my mother together and out of trouble.

Name withheld, *Submission 4*, p. 1.

Children also spoke about the financial impact on their families. Clarisa Allen told the Committee that through her childhood, there were 'so many times when [her mum and her] were stuck for, I don't know, groceries or something, because of single income.'²⁰ Similarly, Holly Nicholls spoke about the 'material poverty and income poverty' that she grew up with, noting that her home was broken 'in every sense of the word, because there were heaps of holes in our walls—nothing worked.'²¹

When I moved with my mum when I was 10, we were on the housing wait list and often living off food boxes from the Salvos and skipping meals—they do not often provide you quite enough.

Rachael Hambleton, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 2.

14 Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 1.

15 Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, pp. 113–123.

16 Professor Nancy Loucks, *Transcript of evidence*, p. 1.

17 Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 20.

18 Harry, via Dr Catherine Flynn, *Submission 27*, p. 14.

19 Holly Nicholls, *Transcript of evidence*, p. 14.

20 Clarisa Allen, *Transcript of evidence*, p. 21.

21 Holly Nicholls, *Transcript of evidence*, p. 14.

For some families, the lack of income perpetuated disadvantage and drove parents to find other ways to make money, including selling drugs, petty crime or sex work.²²

also having one income is really noticeable when you are bringing up an almost-teenage girl. I know that my mother did not engage in selling her body prior to that time; she just never needed to ...

So yes, she sold her body to make money at least once. Unfortunately I saw it, which is every child's worst nightmare.

Leigh Pappos, *Transcript of evidence*, pp. 6–7.

The Committee also heard that many children underwent a grieving process, which was comparable to the death of a parent. However, unlike bereavement, children whose parents were incarcerated did not receive the same 'gathering of social support and empathy and practical assistance and things.'²³

In New Zealand, the Committee heard similar stories and observations from individuals who had experienced parental incarceration:

There is a real sadness in it because what actually happens is that you experience grief when your parent goes to prison. As a child you don't know what that is. It has such a big psychological effect on you. You don't know what it is because it's not a thing that's discussed. The teachers don't know what it is.²⁴

Above all, the Committee heard the complexity of emotions experienced by children affected by parental incarceration—love, hatred, fear, admiration, anger, guilt and shame—which was directed at their parent, and at themselves.

He is like my best friend, and there is no other person in the world that is more like me or that I can relate to more, and sometimes that scares me a bit.

H, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 12.

I had a father in prison when I was a kid. It's the hardest thing to do, to watch that happen to him. To see your dad in there and leave him. You see it in movies, you know what I mean? Jail's bad.

William, a father incarcerated at Loddon Prison, *Committee site visit*, 27 April 2022.

I honestly hated him. I hated him because I feel like he destroyed our family and I just watched my mum, you know, get hurt all the time—not just physically but emotionally. He just drained her, and I hated him. And he was around till the day he died because Mum still loved him for some weird reason, but I could not stand him.

Holly Nicholls, *Transcript of evidence*, p. 18.

²² Leigh Pappos, *Transcript of evidence*, p. 7.

²³ Professor Nancy Loucks, *Transcript of evidence*, p. 8.

²⁴ Aphiaphy Forward-Taua, Executive Director, Just Speak, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 31 May 2022.

still part of me, even though I am not doing anything illegal, feels like I am going to go to prison one day. It just felt like an inevitability growing up. I am in my early 30s now, but there is still a part of me that is deeply convinced that I will go to prison at some point. I know that sounds wild.

Rachael Hambleton, *Transcript of evidence*, p. 3.

I wanted to go to jail to be with him, you know. As a kid, [I was] thinking of committing a crime so I'd go to the same prison as him.

Johnny, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

I feel like the whole cohort did not really have self-esteem, because when your parent keeps going to jail the lens becomes inward focused, and you think, 'Why don't you love me enough to be good, to not go to jail?'

Holly Nicholls, *Transcript of evidence*, p. 14.

I have had obsessions about my own morality—I worried whether I was inherently 'evil' for supporting my father, or even being related to him. I would obsess over the case, and the incarceration.

Name withheld, *Submission 12*, p. 2.

2.2 Research on impacts of parental incarceration on children

I just do not think there is enough of an understanding of the impact of imprisonment on children and the intergenerational consequences of that that we are going to pay the price for many, many years to come in terms of the rate of incarceration that we have now and the rising rate of women being imprisoned as well ... That is going to have intergenerational effects, and it takes a long time to put in place supports that are actually going to negate those impacts.

Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 35.

While the Committee heard significant evidence from people with lived experience, it also received insights from community organisations and researchers who work closely with children and families impacted by parental incarceration. The Committee has included a summary of these insights, including:

- the classification of parental incarceration as an adverse childhood experience
- the health and wellbeing impacts on children of incarcerated parents.

The Committee heard that many of the stressors experienced by children when their parents go to prison can stem from the physiological impacts of trauma. For this reason, the Committee has included a discussion of the nature of trauma at Section 2.2.2 to help explain how it can contribute to health impacts.

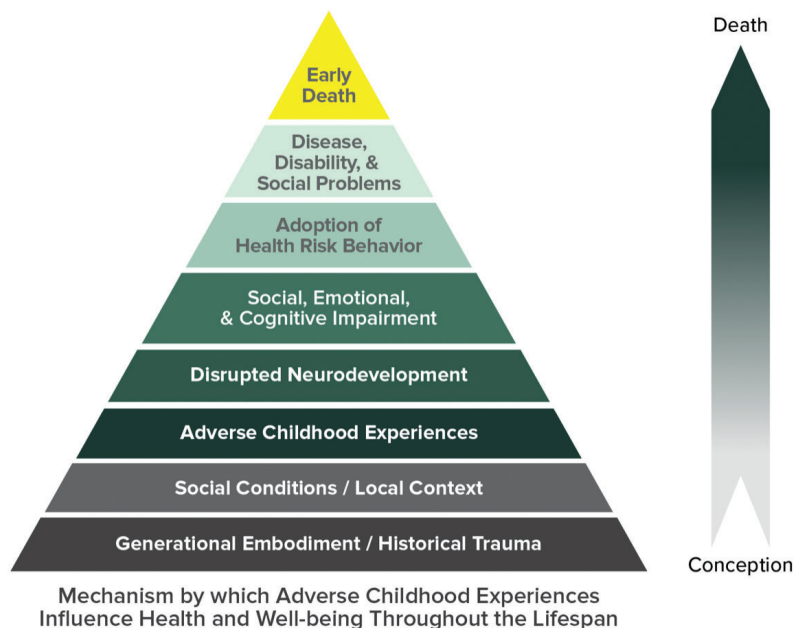
2.2.1 Parental incarceration as an adverse childhood experience

We were just little kids, and we got caught up in it, and I am still paying for it now.

Holly Nicholls, *Transcript of evidence*, p. 20.

Experiencing a parent going to jail during childhood is considered an adverse childhood experience.²⁵ It is one of ten experiences listed in the CDC-Kaiser Permanente Adverse Childhood Experience study and it is included due to the potential traumatic nature of the event.²⁶ These experiences can contribute to poorer health outcomes as illustrated in the Adverse Childhood Experience Pyramid (Figure 2.1).²⁷ It sets out the potential influence of adverse childhood experiences throughout life if left without support, intervention or treatment.

Figure 2.1 Potential influence of adverse childhood experiences without support and intervention



Source: Centers for Disease and Control Prevention, *About the CDC-Kaiser ACE Study, 2022*, <<https://www.cdc.gov/violenceprevention/aces/about.html>> accessed 15 June 2022.

²⁵ Marius Smith, Chief Executive Officer, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 47; Dr Catherine Flynn, *Submission 27*, p. 23.

²⁶ Marius Smith, *Transcript of evidence*, p. 47; Professor Nancy Loucks, *Transcript of evidence*, p. 1; Dr Catherine Flynn, *Submission 27*, p. 23.

²⁷ Centers for Disease Control and Prevention, *About the CDC-Kaiser ACE Study, 2022*, <<https://www.cdc.gov/violenceprevention/aces/about.html>> accessed 15 June 2022.

These experiences are also compounding—that is, more adverse childhood experiences are linked to increasingly poorer health outcomes.²⁸ For children who have a parent go to jail, there are often multiple adverse childhood experiences present. Professor Susan Dennison, Director at Transforming Corrections to Transform Lives, explained the ‘packages of risks’ that are often faced by kids with parents in prison:

Many children who experience imprisonment of their parent also experience various forms of adversity through their childhood and adolescence. This can include child maltreatment, exposure to domestic violence, exposure to high levels of substance use, housing instability and homelessness, instability in education through excessive school moves, disengagement from school, poverty, out-of-home care and exposure to criminal behaviour.²⁹

Despite the potential negative ramifications, the effects of adverse childhood experiences can be reduced and mitigated if appropriate care and support is in place. Evidence based initiatives to prevent the impact of adverse childhood experiences are explored further in Chapter 8.

The impact of parental incarceration as an adverse childhood experience can affect children’s physical, emotional and social wellbeing. Sections 2.1.1 through 2.2.3 outline the impact of parental incarceration within these terms.

2.2.2 Understanding trauma

There’s a run up, you know ... it’s all traumatic, from the time they’re arrested to the visits in prison. [An arrest at home is] the scariest thing that you go through when you’re a kid, because you don’t know it’s the police, you think someone’s running through your house ... they’re saying “Shut the fuck up, sit the fuck down” ... Kicking the door in because that’s how they’re trained. Guns out, through the front, through the back at the same time ... even as an adult, it’s terrifying.

William, a father incarcerated at Loddon prison who experienced his own father’s incarceration, *Committee site visit*, 20 April 2022.

A traumatic event, or a series of traumatic events, can be identified by significant levels of stress. Some traumatic events might be accompanied by a sense of helplessness, horror, and real or threatened injury or death.³⁰ For many children, parental incarceration is traumatic and complex. The repeated traumas experienced—such as witnessing arrest, sentencing, being separated from a loved one, or visiting prison—can create disruptions that can cause serious consequences for the children experiencing them. Further, unique stressors or traumas may be present due to the individual family situation.

²⁸ Centers for Disease Control and Prevention, *Fast facts: Preventing adverse childhood experiences*, 2022, <<https://www.cdc.gov/violenceprevention/aces/fastfact.html>> accessed 15 June 2022.

²⁹ Professor Susan Dennison, *Transcript of evidence*, p. 28.

³⁰ Centers for Disease Control and Prevention, *Coping with a traumatic event*, (n.d.), <<https://www.cdc.gov/masstrauma/factsheets/public/coping.pdf>> accessed 15 June 2022.

Three major points have been identified as the main variants for how significantly children experience trauma when their parents are arrested. These are:

- pre-incarceration factors, such as exposure to criminal activity and arrest³¹
- stability during incarceration and quality of care
- the nature of visitation and contact.³²

The source of trauma is also not confined just to the arrest and imprisonment of a parent. Other traumagenic factors, such as family violence or exposure to criminal activity, may increase the severity of post-traumatic symptoms in children.

Trauma can have a significant impact on psychological and physical wellbeing, and for children who have experienced—or are experiencing—the trauma of a parent going to prison, there can be immediate and long-term impacts.³³ It can also interrupt the chemical neurotransmitters in the brain, which can increase the stress response and reduce the brain's capacity to develop in a healthy way.³⁴ This can cause a range of emotional, social and physical struggles for children.

For people experiencing significant traumas, there is no right way to respond. Some people may demonstrate a resilience response, which means that they can put appropriate coping mechanisms in place to deal with the aftermaths of trauma. For children, it may be harder to know what the appropriate coping mechanisms are, and as such children are more likely to have difficulty regulating their emotions after trauma (see Section 2.1.1). Some people may have acute stress responses and symptoms following trauma, which means they can function in their day-to-day life but it is made harder. Other people may not be able to function at all following exposure to trauma.³⁵

The Committee recognises that parental incarceration can constitute a trauma, which can have a significant impact on children and young adults and may manifest in a range of different ways.

FINDING 1: Parental incarceration is an adverse childhood experience due to its traumatic nature. Like other adverse childhood experiences, parental incarceration can interrupt childhood development and have detrimental impacts on emotional and social wellbeing.

³¹ The Committee notes that exposure to criminal behaviours is outside of the scope of the Inquiry but acknowledges that it can be difficult separating the impact of incarceration from the impact of exposure to criminal behaviour.

³² Joyce A. Arditti, 'Child trauma within the context of parental incarceration: a family process perspective', *Journal of family theory & review*, vol. 4, no. 3, 2012; Giacomo Gualtieri, et al, 'Post-traumatic stress disorder in prisoners' offspring: a systematic review and meta-analysis', *Clinical practice & epidemiology in mental health*, vol. 16, 2020.

³³ See for example Professor Nancy Loucks, *Transcript of evidence*, p. 2; Professor Thalia Anthony, Professor of Law, Faculty of Law, University of Technology Sydney, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 10; South East Monash Legal Service, *Submission 13*, p. 21; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 21.

³⁴ Center for Substance Abuse Treatment (US), 'Chapter 3: Understanding the impact of trauma', in, *Trauma-informed care in behavioural health sciences: Treatment improvement protocol (TIP) series, No. 57*, Substance Abuse and Mental Health Services Administration (US), Rockville, 2014.

³⁵ Ibid.

2.2.3 Health and wellbeing impacts of parental incarceration on children

Today, I struggle with mental health challenges, such as obsessive compulsive disorder, generalised anxiety and major depression. While I cannot comment on whether such conditions may have manifested without the impact of my father's incarceration, I believe it has greatly contributed to it. While not directly related, I also struggle with endometriosis, which research has found has greater prevalence rates in individuals who have experienced trauma. Furthermore, while I have not received a diagnosis, I believe I may be struggling with post-traumatic stress disorder. I have not been able to discuss anything to do with the case, incarceration, or how it impacts me to any mental health professional.

Name withheld, *Submission 18*, p. 1.

Where a lot of evidence about the emotional impacts of parental incarceration was received from people with lived and living experience, most of the evidence about health impacts received by the Committee was provided by professionals.

The Committee would like to again impress upon readers that poor health outcomes are not inevitable, and that appropriate care, strong relationships and therapeutic support can mitigate or reduce the health impacts of parental incarceration. These supports and solutions are outlined in Chapters 7 and 8.

As has been clear throughout this Chapter, there are some risks of adverse health and wellbeing impacts on children exposed to parental incarceration. These include a heightened risk of:

- learning disabilities
- developmental regression, vulnerabilities and delays
- language and cognitive challenges
- attention deficit disorder and attention-deficit/hyperactive disorder.³⁶

In the United States, significant associations have also been found between exposure to paternal incarceration and health problems including:

- migraines
- cholesterol
- asthma
- human immunodeficiency virus.³⁷

³⁶ Dr Catherine Flynn, *Submission 27*, p. 4.

³⁷ Rosalyn D Lee, Xiangming Fang and Feijun Luo, 'The impact of parental incarceration on the physical and mental health of young adults', *Pediatrics*, vol. 131, no. 4, 2013, pp. e1188–e1195.

Maternal incarceration beyond infancy was not associated with physical health outcomes. However, additional findings have indicated that maternal incarceration was associated with:

- forgone healthcare
- lower likelihood of receiving an annual dental examination
- greater likelihood of a child's usual source of care being in an emergency department or non-primary care setting
- worsening health problems due to reduced access.³⁸

Stakeholders also indicated that children of parents who have been incarcerated are more likely to experience mental health issues³⁹ by 25–50 per cent compared to the general population.⁴⁰ For those who experience childhood traumas such as primary carer separation through incarceration, there can be a greater predisposition to psychiatric disorders in adulthood. These were listed in Dr Karleen Gribble's submission to the Inquiry as:

depression, bipolar disorder, generalized anxiety disorder, panic disorder, phobias, posttraumatic stress disorder, schizophrenia, eating disorders, and personality disorders.⁴¹

The New South Wales Parliament's inquiry into Support for children of imprisoned parents in New South Wales, found similar mental health impacts for children affected by parental incarceration:

Children with imprisoned parents have been found to be more likely to experience depression, anxiety, post-traumatic stress, emotional distress, feelings of stigma and shame, and difficulties forming attachment with their imprisoned parents and primary caregivers.⁴²

As outlined in Section 2.1.1, there is also a greater risk of behavioural problems and antisocial behaviour. There may also be more examples of risk-taking behaviours, such as substance abuse, which may cause additional harms to health.⁴³

³⁸ Makeda K Austin, Inez I White and Andrew Wooyoung Kim, 'Parental incarceration and child physical health outcomes from infancy to adulthood: a critical review and multilevel model of potential pathways', *American Journal of Human Biology*, vol. 34, no. 5, 2021, doi: 10.1002

³⁹ See for example VCOSS, *Submission 28*, p. 4; VACCA, *Submission 29*, p. 6; South East Monash Legal Service, *Submission 13*, p. 12.

⁴⁰ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 24.

⁴¹ Dr Karleen Gribble, Adjunct Associate Professor, School of Nursing and Midwifery, Western Sydney University, *Submission 11*, p. 6.

⁴² Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, p. 2 (with sources).

⁴³ VACCA, *Submission 29*, p. 20.

Separation between mothers and infants

The Committee also heard evidence which pointed to additional health risks for infants exposed to parental incarceration. This is particularly true where infant children are separated from their mothers at an early age, including if the mother is not permitted to breastfeed her child.⁴⁴

The first three years of a child’s development establishes patterns of attachment to primary caregivers. When this bond is impeded by separation, children may not be able to develop a secure attachment—which is associated with ‘stress resilience; educational and relationship success; and good mental health’. Instead, children are more likely to develop insecure or disorganised attachments, which place children at greater risk of:

- poor stress resilience
- poor educational and relationship outcomes
- poor mental health
- social dysfunction.⁴⁵

Before children can develop object permanence—the ability to hold the memory of something when it is not present—separation can cause significant grief, despair or sense of hopelessness. When children are not then reconnected with their primary carer/s, detachment can follow which may persist for a long time even when they are reunited.⁴⁶ This may impact relationships later in life.

The Committee discusses options to prevent separation between mothers and infants in Chapter 6.

The Committee was saddened to hear that children affected by parental incarceration were increasingly vulnerable to, and at risk of, physical and mental health conditions. In the Committee’s view, it is unacceptable that this cohort is being consistently overlooked despite the risks to health and wellbeing. The Committee believes that children are blameless in relation to the incarceration of their parent and holistic wraparound supports are required to ensure that children affected by parental incarceration have a good chance at life to succeed—and not be adversely impacted by the trauma experienced. More about the need for holistic support is outlined in Chapter 8.

FINDING 2: Children exposed to parental incarceration have a greater risk of experiencing adverse mental and physical health outcomes due to trauma, a lack of appropriate healthcare, or both.

⁴⁴ Dr Karleen Gribble, *Submission 11*, p. 2.

⁴⁵ *Ibid.*, pp. 4–5.

⁴⁶ *Ibid.*

2.3 Other impacts

Incarceration is usually an outcome of some, or all of the factors listed ... factors of poverty, trauma, abuse, substance addiction, mental illness, unstable housing and poor education.

The children are impacted not only by the fact that their parents are incarcerated but because some or all of the above factors are part of their 'normal' childhood development.

It is intergenerational.

Somebody's Daughter Theatre Company, *Submission 12*, p. 5.

Beyond the emotional, social and health impacts of parental incarceration, the Committee heard that there were other environmental impacts. These were present for children and the wider family, including formal or informal carers. This Section touches on:

- impact on carers
- disconnection from culture
- risks of future offending and incarceration.

Impact on carers

Watching my son is breaking me ... and I just do not know what to do anymore.

Jane, via Julie Hourigan Ruse, Chief Executive Officer, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 13.

For many carers, including co-parents who are left to take care of their children, the impact of incarceration can be significant. The evidence received by the Committee highlighted three main areas, which were:

- a lack of support and insufficient communication with the government departments
- difficulties navigating children's behaviour, including around visitation
- financial impacts.

Carers spoke about the lack of support available and told the Committee that not knowing how to help out was 'debilitating'.⁴⁷ Jane, a mother who reached out to SHINE for Kids for support, noted that her son had 'lost complete trust in both [Jane] and his dad [who is in prison] as [they] are unable to give him answers or keep any promises.'⁴⁸

⁴⁷ Name withheld, *Submission 2*, p. 1.

⁴⁸ Jane via Julie Hourigan Ruse, Chief Executive Officer, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 12.

Anne McLeish OAM, Director of Kinship Carers Victoria and Grandparents Victoria, said that to support carers and children, ‘the communications between the department and the carers needs to be improved’.⁴⁹ Anne McLeish noted that carers had made a record number of complaints about being unable to reach case workers, which they attributed to huge caseloads.⁵⁰

Additional challenges were faced by carers managing the behaviour of children exposed to parental incarceration. This was particularly difficult before and after accompanying children for visitation. A submitter connected to Elizabeth Morgan House spoke about navigating visitation with a foster child in their care:

no one’s suggested a way to prepare so I definitely wasn’t offered that from the agency that he’s with. I wasn’t offered it from Dame Phyllis Frost or anyone else. I definitely would have been interested in hearing more, and tips and tricks...There’s no specific help on what you can do and what you can support and build that relationship and rapport and things.⁵¹

For other carers, facilitating contact was difficult due to their own trauma or the nature of their relationship with the person in prison. Aunty Muriel Bamblett AO, Chief Executive Officer at VACCA, noted that:

where there are strained family relationships and hostility between ex-partners, especially where there was family violence, it is not surprising that a parent or carers are not willing to bring children to visit in the prison.⁵²

Many carers are also impacted financially. For those who had taken in children informally, there was often a reduction in income earned due to caring responsibilities, and an absence of sufficient supplementary benefits available.⁵³ Dr Catherine Flynn told the Committee that their research indicated that for grandparents who were supporting children over an 18-month period, ‘It worked out at a cost—these are very estimated—of around \$20 000 additional direct cost to families.’⁵⁴

Anne McLeish OAM, Director of Kinship Carers Victoria and Grandparents Victoria, spoke about the need to recognise and compensate informal and kinship care arrangements, which make up 75% of the care arrangements in Victoria:

there is financial compensation that is important, and the other one is a recognition that they are families, they are not professional carers. They are not like the carers in residential care or foster carers, they are family and they want to be treated and recognised as family—as people who are trying to hold their families together across generations.⁵⁵

⁴⁹ Anne McLeish, Director, Kinship Carers Victoria and Grandparents Victoria, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 8.

⁵⁰ Ibid.

⁵¹ A submitter connected to Elizabeth Morgan House, *Submission 42*, 2:09–2:49.

⁵² Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 22.

⁵³ Anne McLeish, *Transcript of evidence*, p. 2.

⁵⁴ Dr Catherine Flynn, *Transcript of evidence*, p. 25.

⁵⁵ Anne McLeish, *Transcript of evidence*, p. 2.

The impact of appropriate financial support was highlighted throughout the COVID-19 pandemic, when some carers received additional financial support for the first time:

People receiving the supplement reported being able to afford rent, bills, fresh food, medicines, essential medical, dental and mental healthcare and treats and presents for their children, which had previously been out of their reach. One parent said: “I feel like before Coronavirus we were living in poverty. Always wondering when I wasn’t going to be able to scrape enough together to feed the kids again. At the moment, I can breathe and sleep a little easier knowing everything that needs to be paid is, and the kids are fed. I don’t have anything left over to save but my children are eating better.”⁵⁶

The Committee believes that greater support should be provided to carers supporting children impacted by parental incarceration to ensure that they can properly meet the child’s needs. While some organisations are currently supporting carers (see Chapters 7 and 8), any government model to support the children of incarcerated parents should also contain supports for carers of these children.

FINDING 3: Carers supporting children of incarcerated parents are often left with minimal guidance or emotional and financial support.

Disconnection from culture

This systemic perpetuation of disadvantage for Aboriginal families means that our families do not get the early help. There is not a real understanding of the history and the trauma and how that has impacted.

Aunty Muriel Bamblett AO, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 22.

The disproportionate impact of trauma which contributes to the criminalisation of Aboriginal community members—often as a consequence of colonial structures—is explored in depth throughout the Committee’s report *Inquiry into Victoria’s Criminal Justice System*.⁵⁷ Throughout the current Inquiry, the Committee has again seen the impacts of the overrepresentation of Aboriginal Victorians in the criminal justice system causing intergenerational trauma due to incarceration.

For Aboriginal communities, incarceration can have significant cultural repercussions by separating parents from their family and community. There is also a higher risk of Aboriginal children being removed from families and put into out of home care, which can result in children being placed in non-Aboriginal care.⁵⁸ This can create a disconnect from culture, identity and extended family.⁵⁹

⁵⁶ Change the Record, *Submission 26*, p. 35.

⁵⁷ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria’s criminal justice system*.

⁵⁸ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 20; Change the Record, *Submission 26*, p. 14.

⁵⁹ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 20.

In the Centre for Innovative Justice’s submission, Elizabeth Morgan House Aboriginal Women’s Service noted that ‘The lack of formal support systems, inadequate parent-child contact, intergenerational hyper-incarceration and disconnection have serious impacts on the social, emotional and physical wellbeing of Aboriginal children.’⁶⁰ This was supported by Aunty Muriel Bamblett AO, Chief Executive Officer at VACCA, who spoke about how disrupting cultural identity contributed to intergenerational offending:

I think intergenerational offending and incarceration is exceptionally high. I think asking a child to lose contact with their culture, community and identity is also an exceptional risk. Courts argue that the human right of children and their best interests should always be a significant consideration when sentencing an offender who is the parent of dependent children, especially where the offender is the sole or primary carer. But we do not see that for Aboriginal children, given our high rates of incarceration of parents.⁶¹

In New Zealand Glenis Phillip-Barbara, the Assistant Māori Children’s Commissioner told a delegation of the Committee:

Governments need to see children in the context of their family, and the family in the context of community, and support the development of those.⁶²

Commissioner Philip-Barbara told the delegation that to achieve transformational change, healing and recovery of prisoners and their families, this needed to occur in the community.⁶³ For Aboriginal Victorians, connections to culture, land, family and community can serve as protective factors, can support positive mental health and act as ‘sources of strength and resilience’.⁶⁴ By severing these connections for Aboriginal children, it can cause significant distress which reiterates the impacts of generational trauma.⁶⁵

FINDING 4: Separating Aboriginal children and parents due to incarceration can disrupt connection to culture, land and family. Removal of children from communities into out of home care, particularly into non-Aboriginal care placements, can perpetuate the impacts of historic trauma.

⁶⁰ Centre for Innovative Justice, *Submission*, p. 10.

⁶¹ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 21.

⁶² Glennis Phillip-Barbara, Assistant Māori Children’s Commissioner, Office of the Children’s Commissioner, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁶³ *Ibid.*

⁶⁴ Kerrie Kelly, et al, *Living on the edge: Social and emotional wellbeing and risk and protective factors for serious psychological distress among Aboriginal and Torres Strait Islander people*, discussion paper, no. 10, Australian Indigenous Psychologists Association and Cooperative Research Centre for Aboriginal Health, Casuarina, 2009, p. 6.

⁶⁵ *Ibid.*

Risks of future offending and incarceration

We hope that, if this had've happened when our fathers were in prison, it would've made a difference to us.

Johnny, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 17 April 2022.

The Committee heard throughout the Inquiry that many people who experienced parental incarceration were frustrated by being reduced to statistics. This was particularly difficult during discussions about the increased likelihood of future offending or incarceration.

The Committee would like to acknowledge that these statistics can cause significant fear or harm to children of people who have experienced incarceration. For many, these statistics planted a deep-seated fear in children and young people that they are bad, or inherently evil, or that no matter what they do, ending up incarcerated is an inevitability.

Before the Committee outlines the evidence about this matter, it is important to stress that incarceration and offending are not inevitable. Most affected children do not end up incarcerated. Further, if families received appropriate support when needed, the Committee believes that the intergenerational offending can be reduced.⁶⁶ Such supports are explored in Chapters 7 and 8.

A number of stakeholders confirmed that 'Children are more likely to become involved with the criminal justice system if their parents have been involved in the system.'⁶⁷ According to VACRO, in Victoria, intergenerational incarceration has been experienced by:

- 11% of non-Indigenous people
- 31% of Aboriginal and Torres Strait Islander people
- 25% of prison entrants between 18–25
- 10% of prison entrants over 45.⁶⁸

Many organisations said that intergenerational incarceration was typically a result of intergenerational trauma⁶⁹—particularly when trauma is left unaddressed.⁷⁰ As such, the Committee believes that the reduction of incarceration in general (Chapter 3) and the introduction of a coordinated support system (as set out in Chapter 4) will go a long way to breaking the cycle of disadvantage and incarceration.

⁶⁶ Professor Nancy Loucks, *Transcript of evidence*, p. 2.

⁶⁷ Somebody's Daughter Theatre Company, *Submission 12*.

⁶⁸ VACRO, *Families and prisons in Victoria*, 2022, <<https://www.vacro.org.au/information-about-families-and-prisons-in-victoria>> accessed 14 June 2022.

⁶⁹ VACCA, *Submission 29*, p. 5; Jesuit Social Services, *Submission 35*, pp. 3, 7.

⁷⁰ See for example, VACCA, *Submission 29*, p. 5; Indigenous Law and Justice Hub, *Submission 36*, p. 8; Dr Megan Bell and Professor Leonie Segal Professor David B Preen, *Submission 41*, p. 4.

FINDING 5: Incarceration can be intergenerational when families and children do not receive timely and appropriate support. Cycles of trauma and disadvantage typically contribute to intergenerational incarceration.

3 Reducing harm by reducing incarceration

3.1 Introduction

As discussed in Chapter 2, parental incarceration creates increased risk of harm for children. While there are programs and services that can ameliorate this risk (see Chapters 7 and 8), the Committee heard throughout this Inquiry that these harms can be best avoided by limiting how often parents are incarcerated.

This Chapter outlines the evidence that the Committee heard arguing for a reduction in incarceration generally, which would result in a reduction in children affected by parental incarceration. For discussion of particular measures to consider parental status in incarceration decisions, see Chapter 6.

Section 3.2 briefly outlines estimates of the extent of incarceration of parents in Victoria while noting significant issues with data collection in this area (discussed in more detail in Chapter 5). These incarceration figures include recognition of overrepresented and growing cohorts, particularly women and Aboriginal Victorians (Section 3.2.2).

The Committee identified three broad themes in its evidence arguing for the reduction of parental incarceration:

- addressing social factors that impact offending
- bail laws
- alternative sentencing options (Section 3.3).¹

The Committee notes that many of the issues outlined in this Chapter were addressed extensively in the Committee's final report for its Inquiry into Victoria's criminal justice system and encourages readers to consult that report.²

¹ Chapter 6 also discusses these issues, in the context of considering how the best interests of children can be considered at all points in the criminal justice system. Chapter 6 includes recommendations around decisions that lead to incarceration as part of that consideration.

² Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022.

3.2 The extent of parental incarceration in Victoria

A good starting point to better responding to children with parents in prison would be to better understand the number of children affected. While the problem of parental incarceration is known to be significant, there is no reliable data source currently available on the number of children affected.

Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 1.

The extent to which parents are incarcerated in Victoria is unclear, as is the number of children who have an incarcerated parent. The lack of data on this issue was a common theme in evidence to the Committee (see Chapter 5), and the data that is available is sometimes contradictory.

Corrections Victoria Commissioner Larissa Strong told the Committee that based on prison reception assessment interviews³ undertaken in 2021, 53% of people entering the prison system reported that they had children (61% of women, 52% of men).⁴

Commissioner Strong also noted that in 2021, only 6% of people (10% of women) entering the prison system reported that they had legal custody of their children.⁵

From a national perspective, 2018 data reported by the Australian Institute of Health and Welfare, based on the National Prisoner Health Data Collection survey of 803 prison entrants, indicated:

- 38% of prison entrants reported having children in the community who were dependent on them for their basic needs
- 47% of Indigenous prison entrants reported having dependent children, compared to 33% of non-Indigenous entrants
- women (54%) were more likely than men (36%) to have dependent children.⁶

The report also noted that 18% of respondents had experienced their own parent or parents' incarceration during their childhood—nearly one in five people.⁷

Some submissions⁸ to the Committee cited research that estimated that 5% of all Australian children will experience a parent in prison,⁹ leading to an estimated 45,000 Victorian children experiencing parental incarceration at some point in their

³ For more see Chapter 5.

⁴ Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 55; *Ibid.*

⁵ *Ibid.*

⁶ Australian Institute of Health and Welfare, *The health of Australia's prisoners*, Australian Institute of Health and Welfare, Canberra, May 2018, p. 14.

⁷ *Ibid.*

⁸ South East Monash Legal Service, *Submission 13*, p. 15.; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 23; VACCA, *Submission 29*, p. 5; Victorian Aboriginal Legal Service, *Submission 40*, p. 18.

⁹ Simon Quilty, 'The Magnitude of Experience of Parental Incarceration in Australia: Letter to the Editor', *Psychiatry, Psychology and Law*, vol. 12, no. 1, 2005.

childhood.¹⁰ Others referred to the National Prisoner Health Data Collection figures cited above.¹¹ April Long, National Operations Manager at SHINE for Kids, told the Committee approximately 50% of incarcerated people are parents, which would mean that there are approximately 3,500 parents in Victorian prisons.¹² Dr Catherine Flynn's submission indicated there are 7,000 children in Victoria with a parent in prison on any given day, however, this number is an estimate:

In Victoria on any given day around 7,000 children have a parent in prison. However, there are evident limitations with this approach: these are approximates, based mainly on US data, with no annual data gathered; this figure is also likely to be an underestimate. Accurate data are needed.¹³

The Committee is concerned that the true numbers of parents incarcerated in Victoria, and conversely children who have an incarcerated parent, are unknown. While there are estimates, more accurate figures are needed to appropriately respond to this cohort's needs (for more see Chapter 5).

FINDING 6: While some data concerning parental incarceration is collected by Government agencies, this data is either not extensive or not sufficiently publicly available. As a result, it is difficult to know how many children are affected by parental incarceration. Estimates include that half of all people incarcerated in Victoria (3,500 people) are parents, and that 45,000 Victorian children will experience parental incarceration at some point in their childhood.

3.2.1 Parental incarceration is likely rising

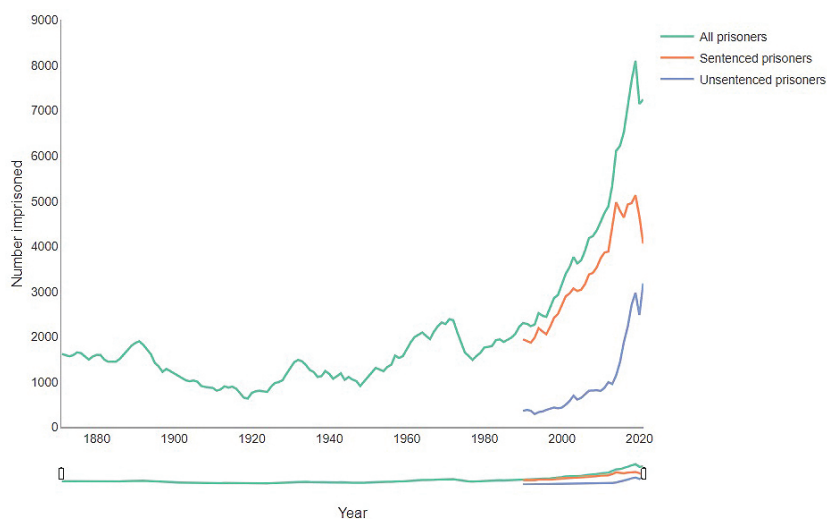
While reliable data on the number of incarcerated people who are parents is lacking, what is clear is that the total number of people incarcerated in Victoria is rising. The greatest increase in the prison population is the proportion of unsentenced prisoners, as demonstrated in Figure 3.1. It follows that an increase in the number of incarcerated people overall likely means an increase in the number of incarcerated parents.

¹⁰ VACRO, Families and prisons in Victoria, 2022, <<https://www.vacro.org.au/information-about-families-and-prisons-in-victoria>> accessed 31 May 2022.

¹¹ Commissioner for Children and Young People South Australia, Submission 15, *Attachment 1*, p. 23; Commission for Children and Young People, *Submission 33*, p. 5.

¹² April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 11.

¹³ Dr Catherine Flynn, *Submission 27*, p. 6.

Figure 3.1 Total sentenced and unsentenced prison population in Victoria

Source: Sentencing Advisory Council, *Victoria's Prison Population*, <<https://www.sentencingcouncil.vic.gov.au/sentencing-statistics/victorias-prison-population>> accessed 1 June 2022. The Committee discussed the recent drop in prison population in its report *Inquiry into Victoria's criminal justice system*, noting COVID-19-related restrictions and delays mean 'recent figures may not be reliable in representing the overall trend of incarceration numbers'. Parliament of Victoria Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, p. 58.

FINDING 7: Based on overall rising incarceration figures, it is likely that the number of parents incarcerated in Victoria is rising.

3.2.2 The proportion of women and Aboriginal Victorians incarcerated in Victorian prisons is rising

The Committee heard that the disproportionate increase of incarcerated women and the overrepresentation of Aboriginal Victorians was contributing to the increase in Victoria's prison population.

The Committee heard that the reverse onus provisions in the *Bail Act 1977* (the Bail Act) are contributing to the rise in incarceration of women, including Aboriginal women.¹⁴ Safe and Equal's submission stated:

Victoria is experiencing a dramatic and unacceptable increase in the number of women being incarcerated (137.82% over the previous decade), including a dramatic rise in the number of unsentenced women entering the prison system on remand (43% of the total number of women in prison in 2020).¹⁵

A submission from the Law and Advocacy Centre for Women outlined the impact this has on children:

The growing numbers of women being held in Victorian prisons should be a cause of alarm, especially when considering the impacts this has on children. More women in

¹⁴ Victorian Aboriginal Children & Young People's Alliance, *Submission 14*, p. 1.

¹⁵ Safe and Equal, *Submission 25*, p. 8 (with sources).

prison means more mothers in prison, with consequential deleterious impacts on their children.¹⁶

The Commission for Children and Young People noted that more than half of women incarcerated in Victoria are on remand and many of those women will not receive a custodial sentence.¹⁷

We note the prevailing statistical disproportion of incarceration of Aboriginals against the rates of incarceration of the non-Aboriginal population. From this simple fact we know that children from the Aboriginal community of Victoria will be over-represented in this cycle of disadvantage from parental incarceration.

Victorian Aboriginal Children and Young People's Alliance, *Submission 14*, p. 1.

Aboriginal Victorians are overrepresented in our prisons, which means children of Aboriginal parents are disproportionately impacted by incarceration.¹⁸ The Committee heard that 20% of Aboriginal children will experience the incarceration of a parent, compared to 5% for the rest of the population.¹⁹ April Long, National Operations Manager at SHINE for Kids, told the Committee that almost a third of the children it supports are Aboriginal and Torres Strait Islander:

Thirty per cent of children that Shine for Kids supports across 32 prisons nationally in Australia are Aboriginal and Torres Strait Islander children. It is actually estimated that 20 per cent of all Aboriginal children will experience parental incarceration in their lifetime.²⁰

The Committee heard that as mothers are often the primary carers of children, their incarceration can have large impacts on children.²¹ This can be particularly so for Aboriginal women, who may have 'cultural responsibility for the care of non-biological children.'²² These issues are also significant for Aboriginal families, given the ongoing trauma of the stolen generation,²³ and the separation of children from their culture when a parent is imprisoned.²⁴

¹⁶ Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 6.

¹⁷ Commission for Children and Young People, *Submission 33*, p. 2 (with source).

¹⁸ Victorian Aboriginal Children & Young People's Alliance, *Submission 14*, p. 1; SHINE for Kids, *Submission 19*, pp. 14–15; Change the Record, *Submission 26*, p. 2; Commission for Children and Young People, *Submission 33*, p. 9; Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, p. 59, see also p. 61.

¹⁹ Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 20; Victorian Aboriginal Legal Service, *Submission 40*, p. 18.

²⁰ April Long, *Transcript of evidence*, p. 10.

²¹ Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 3; Smart Justice for Women, *Submission 37*, p. 3.

²² Law and Advocacy Centre for Women Ltd, *Submission 31*, pp. 3–4. For more on the impacts of incarceration on children, see Chapter 2.

²³ Victorian Aboriginal Legal Service, *Submission 40*, p. 20.

²⁴ Victorian Aboriginal Children & Young People's Alliance, *Submission 14*, p. 1.

The Victorian Aboriginal Child Care Agency's submission identified Aboriginal women as the fastest growing prison population:

Aboriginal women are the fastest growing prison population, with a high proportion of these women having dependent children. Significant policy reform and investment across the justice continuum is needed to address the intersectional discrimination they face. Incarceration should be seen as a last resort. Diversion and non-custodial penalties options should be exhausted prior.²⁵

FINDING 8: Women, particularly Aboriginal women, are the fastest growing cohort in Victoria's prisons. The reverse onus provisions of the *Bail Act 1977* (Vic), which has led to increases in remand rates, are contributing to this rise.

3.2.3 Family violence and incarceration of parents

The Committee heard that mothers are often victimised by family violence, but the nature of family violence and the way the Victorian justice system responds to it can lead to the incarceration of victims. This can take the form of:

- victim-survivors who commit retaliatory family-violence
- criminalising victim-survivors of family violence
- misidentifying victim-survivors as perpetrators.²⁶

For example, the South-East Monash Legal Service told the Committee in their submission that:

We have seen victim-survivor clients facing family violence related charges, who speak of the impact of the family violence they themselves have experienced as creating the tense and high-stress environment leading up to their own offending behaviour. These clients may also experience evidentiary difficulties if they have not reported their past experiences of family violence to police.

We have observed that there appears to be a widespread reluctance by the informant, prosecution and the Court to place clients charged with assault-related offences on a diversion program, including where the assault may have occurred in the context of family violence. This may be in circumstances where, notwithstanding the nature of the offence, diversion may otherwise be appropriate.²⁷

²⁵ VACCA, *Submission 29*, pp. 2-3.

²⁶ South East Monash Legal Service, *Submission 13*, pp. 18-19; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 11. For a more in-depth investigation of misidentification and related matters see Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, pp. 232-245.

²⁷ South East Monash Legal Service, *Submission 13*, pp. 18-19.

BOX 3.1: Finding and recommendations regarding family violence from the Committee's report *Inquiry into Victoria's criminal justice system*

Finding 21: Female victim-survivors of family violence are regularly misidentified by Victoria Police as the primary aggressor/respondent in family violence proceedings. Misidentification has serious repercussions which may include:

- criminal charges
- long term separation from dependent children
- exposure to further violence
- the withdrawal of social, legal and financial supports
- visa cancellation and deportation for migrants.

Recommendation 26: That Victoria Police ensure all front-line police officers undertake regular training in relation to responding to family violence incidents, and that training continues to be provided. This training should include:

- the appropriate application of the Code of practice for the investigation of family violence
- the gendered nature of family violence
- the factors informing the misidentification of aggressors (including cultural and language barriers)
- the repercussions of misidentification
- social support available to families to address family violence.

Recommendation 27: That Victoria Police, in collaboration with legal and community stakeholders, implement a review mechanism for family violence matters capable of identifying instances where a victim-survivor may have been misidentified as the primary aggressor in an incident and provide information about a process for the withdrawal of criminal charges.

Source: Parliament of Victoria Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, pp. 243–245.

The Committee reaffirms the finding and recommendations it made around these issues in its report *Inquiry into Victoria's criminal justice system* and notes the increased risk of harm to children involved in these situations. Incarceration as a result of misidentification impacts not only the misidentified person, but any children who are no longer in their care.

FINDING 9: Poor responses to family violence can lead to increased incarceration of mothers in particular, therefore increasing the risk of harm to children. The Committee reaffirms the finding and recommendations it made on this issue in its report *Inquiry into Victoria's criminal justice system*.

3.3 Reducing harm through reducing incarceration

Fundamental to supporting the children of people who are incarcerated is keeping parents out of the criminal justice system and ensuring alternatives to prison, services and supports are accessible, culturally appropriate and well-resourced

Change the Record, Submission 26, p. 3.

A strong theme in the Committee's evidence was the need to reduce harm by reducing incarceration generally.²⁸ Professor Thalia Anthony of the University of Sydney, told the Committee that whatever supports are available for children with parents in prison, the better option is to keep families together:

So while we believe there should be better support for children to go to prisons, I think the underlying finding is that children need to be living with parents and there need to be services in the community, especially Aboriginal services for Aboriginal children, that support sentence options in community.²⁹

The Committee heard lived experience evidence that, even when a family situation is unstable, keeping families together can be a better option:

The impact of my father's imprisonment was destabilising our environment. We were already very destabilised, moving from suburb to suburb every six months, the impact of living a life that includes drug dealing. But when my father was away, this was exacerbated. Not only was he the 'head' of the family, but he kept my mother together and out of trouble.³⁰

Among submitters and witnesses advocating for families to be kept together through a general reduction in incarceration was Leigh Garrett, Chief Executive Officer of OARS Community Transitions in South Australia. Leigh told the Committee:

Everybody has talked about preventing incarceration in the first place. The fewer people we put into prison, the fewer children who will be impacted, and that is simply just a basic principle. It is certainly my view that we incarcerate too many people in South Australia and too many people in Australia.³¹

The South-East Monash Legal Service Inc. similarly stated:

There is no replacement for a parent child relationship, and in most cases, maintaining and strengthening these bonds is imperative. By reducing the numbers in prison, we reduce the number of children who are left without a parent.³²

²⁸ Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 35; Indigenous Law and Justice Hub, *Submission 36*, p. 8.

²⁹ Professor Thalia Anthony, Professor of Law, Faculty of Law, University of Technology Sydney, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 11.

³⁰ Name withheld, *Submission 4*, p. 1.

³¹ Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 2.

³² South East Monash Legal Service, *Submission 13*, p. 11.

The Committee recognises that reducing incarceration generally is a larger subject than the focus of this Inquiry. It was, however, a strong theme in evidence, and clearly a pathway to reduce the risks of harm posed to children when their parents are incarcerated. As such, the Committee briefly explores some of the recommendations for achieving reduced incarceration it heard, in the following sections. Where appropriate, it makes references to the Committee's previous Inquiry into Victoria's criminal justice system which explored these issues in more detail.

3.3.1 Methods for reducing incarceration

The Committee heard suggestions to reduce incarceration across three broad areas:

- addressing the social determinants of offending behaviour
- changes to bail laws
- alternatives to custodial sentences.

Addressing social determinants of offending behaviour

The Committee discussed the 'nexus between different forms of socioeconomic disadvantage and engagement with the criminal justice system' at length in its report *Inquiry into Victoria's criminal justice system*.³³ The Committee heard similar evidence in this Inquiry.³⁴ The submission from South-East Monash Legal Service Inc. referred to research which expresses this nexus:

Research shows that there is a high chance that Australian prisoners have underlying co-complexities to their offending, such as childhood trauma, disability, substance abuse, have been involved in family violence and have higher levels of mental health problems.³⁵

The Committee reiterates its findings from its report *Inquiry into Victoria's criminal justice system*:

- 'integrated social support services which holistically address compounding or intersectional disadvantage can increase the efficacy of early intervention aimed at preventing contact with the criminal justice system'³⁶ and
- 'the nexus between disadvantage, victimisation and criminalisation is not causal. Disadvantage typically culminates in engagement with the criminal justice system in instances where society has repeatedly failed to provide the social, mental health, economic or legal supports a person needs to live productively in the community.'³⁷

³³ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, pp. 72–95.

³⁴ South East Monash Legal Service, *Submission 13*, p. 10; VAADA, *Submission 34*, p. 1; Jesuit Social Services, *Submission 35*, p. 14.

³⁵ South East Monash Legal Service, *Submission 13*, p. 10 (with sources).

³⁶ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, p. 95.

³⁷ *Ibid.*, p. 77.

Providing holistic services that address society's failures to provide the supports people need to live productively in the community can reduce rates of offending and incarceration. This accordingly reduces the number of children with incarcerated parents.

Changes to bail laws

As the Committee outlined in its report *Inquiry into Victoria's criminal justice system*, changes to Victoria's bail laws over the last decade which enacted a presumption against bail for over 100 offences have resulted in an increase in the number of Victorians on remand.³⁸

The Committee heard that reforming these laws, particularly reversing the presumption against bail for many offences, would reduce the number of parents being incarcerated, and thus the associated risk of harm to their children.³⁹

Karen Fletcher, Executive Officer, Flat Out Inc., told the Committee:

It should not be assumed that people should be imprisoned unless they can prove otherwise. It should be assumed that they should not be imprisoned unless the police and the state can prove otherwise. The burden should be on the state, not on these families. That is what they are resourced for, and they are resourced at a much higher level than any of the agencies that look after kids.⁴⁰

Alternatives to custodial sentencing

In addition to bail law reform, a strong theme in the Committee's evidence was the need to use alternative sentencing options to keep parents with their families, such as diversion programs and community-based sentencing.⁴¹ Some emphasised a desire for consideration of non-custodial sentences for crimes associated with disadvantage,⁴² such as non-payment of fines.⁴³

In its submission to the Inquiry, the Community Restorative Centre of New South Wales argued for the greater use of measures that keep parents and their children together in the community:

any response to meeting the needs of the children of imprisoned parents should begin with highlighting the need for diversion and decarceration opportunities, particularly

³⁸ Ibid., pp. 442–453.

³⁹ Professor Susan Dennison, *Transcript of evidence*, p. 35; Melinda Walker, Criminal Lawyer, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 51; Students for Sensible Drug Policy, *Submission 23*, p. 10; VACCA, *Submission 29*, p. 7; Commission for Children and Young People, *Submission 33*, p. 2; Jesuit Social Services, *Submission 35*, p. 9.

⁴⁰ Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 37.

⁴¹ Melinda Walker, *Transcript of evidence*, p. 49; South East Monash Legal Service, *Submission 13*, pp. 10, 25, 27; Victorian Aboriginal Children & Young People's Alliance, *Submission 14*, p. 2; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 8; Victorian Aboriginal Legal Service, *Submission 40*, p. 30.

⁴² Change the Record, *Submission 26*, p. 2; Ibid., p. 25.

⁴³ South East Monash Legal Service, *Submission 13*, p. 19; Students for Sensible Drug Policy, *Submission 23*, p. 4; VAADA, *Submission 34*, p. 2.

in relation to parents charged with minor offences and given short sentences. Parents who are primary carers should remain in the community to care for their children. Where appropriate, diversion options are far less disruptive than parental removal for children, families, as well as to the housing and material stability of the family. Diversion enables families to stay connected and continue to care for and meet children's emotional, social, educational and practical needs.⁴⁴

Richard Boonstra, Victorian State Manager at Prison Fellowship Australia, also advocated for non-custodial sentences that allow families to stay together:

being more creative around sentencing so that perhaps not every offender needs to go to prison. We would look at ways to keep families together, look at home detention ideas or other creative ways of keeping families together ... looking more creatively at that and keeping more people out of prison rather than putting more people in prison.⁴⁵

The *Inquiry into Support for children of imprisoned parents in New South Wales* noted similar evidence about the need to avoid custodial sentences for parents where possible:

There was widespread support from stakeholders that imprisonment should be used as a last resort, and that reform to sentencing legislation could reduce the number of children affected by parental incarceration. Imprisoning parents is not in the best interests of children, and should be avoided where possible.⁴⁶

The Committee has previously discussed such alternatives to custodial sentences in its report *Inquiry into Victoria's criminal justice system*.⁴⁷ This includes recognition from the Victorian Government of the benefits of alternative sentencing options offered through the Drug Court.⁴⁸

The Committee's aim in this Inquiry is not to interrogate the strengths and weaknesses of particular non-custodial sentencing options. The Committee instead recognises that there are clear risks of harm to children when their parents are separated from them by incarceration (see Chapter 2). The Committee accepts that reducing parental incarceration therefore reduces the risk of harm to children and families.

The Committee recognises there are serious offences for which a term of imprisonment is appropriate in the interests of community safety, regardless of whether the person who offended has children.

⁴⁴ Community Restorative Centre, *Submission 20*, p. 8.

⁴⁵ Richard Boonstra, Victorian State Manager, Prison Fellowship Australia, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 20.

⁴⁶ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, p. 6 (with sources).

⁴⁷ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, pp. 69-123, 481-565.

⁴⁸ *Ibid.*, pp. 524-529.

FINDING 10: Reducing incarceration of parents can reduce the associated risk of harm to children. Methods for reducing incarceration generally—such as addressing the social determinants of offending behaviour, changes to bail laws, and alternatives to custodial sentencing—can therefore contribute to reducing the risk of harm to children. When considering alternatives to custodial sentencing, there must be a balance between community safety and protecting the interests of the child or children of offenders.

The Committee believes that efforts to reduce the prison population are important to reduce the harm caused to families and children. The suggested measures to address the rising remand population and reduce separation via incarceration, are worthwhile to reduce intergenerational trauma and harm. The Committee also believes that there is a need for more targeted child-centric policies and procedures that recognise and respond to the harm caused by parental incarceration. Opportunities to implement such practices within the Victorian justice system are explored in Chapter 6.

RECOMMENDATION 1: Legislative reform should be enacted to reduce the growing prison population in Victoria. This can include:

- addressing the social determinants of offending behaviour
- in line with the Committee’s recommendation in its report *Inquiry into Victoria’s criminal justice system*, reviewing the operation of the *Bail Act 1977* (Vic) and parole system, drawing on previous reviews by the Victorian Law Reform Commission and former Supreme Court judge Paul Coghlan, with a view to amendments to simplify the bail tests, make presumptions against bail more targeted to serious offending and serious risk, and ensure that decision makers have discretion to consider a person’s circumstances when deciding whether to grant bail or parole.
- using non-custodial sentencing options where appropriate, noting the need for community safety.

3.4 New Zealand

New Zealand shares a similar population to Victoria along with similar challenges in the justice system. Both Victoria and New Zealand have a high imprisonment rate and an overrepresentation of indigenous people in the system. This is discussed throughout this report.

During a visit to New Zealand the Committee heard from the Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti and Associate Minister of Education. The Minister shared with the Committee his government’s goals in relation to lowering the prison population in New Zealand:

Our goal was to reduce the prison population by 30% in 15 years. I’m proud to say we did this in 3 years. In March 2018 we saw it start to go down. The statistic I am most proud of is that we reduced the number of women in the prison population by 50%.

We recognised that prisons were built for male violent offenders and we were putting women into them. Women who were continuing to try to run their household and look after their children.⁴⁹

The Committee were interested in how this reduction in incarceration numbers had been achieved. The response from New Zealand was that a number of initiatives have been put in place to support and drive reform but cautioned that the new measures and results were still being evaluated and properly understood.

The High Impact Innovation Team (HIIP) was established at the New Zealand Department of Corrections to implement changes to support the governments justice system agenda. The goal of the team is to drive change collaboratively across government and be a 'disruptor in the justice system'.⁵⁰

HIIP is a cross-sector group that works in partnership with government agencies and Māori and focuses on investing in community capability. The focus is on:

- strengthening of the Māori-Crown relationship
- system performance
- transformation of the criminal justice system.

Karen Gillies, a senior executive in the Department of Corrections told the Committee that 'improving the justice system has been about changing the consciousness across the board, the justice system, corrections, the courts and community'.⁵¹ She described an approach which looked at the incarcerated person in their broader family context and in relation to their health needs:

One of the key approaches that is believed to be a driver for change is meeting the immediate needs of families, involving families in the prisoner rehabilitation process and ensuring ongoing funding for organisations doing that do this work.⁵²

Another key factor of the approach is to recognise, in Karen Gillies' words, that 'our job is to enable access to ongoing health and other services for prisoners. When someone comes into prison others turn away and say this is corrections issue now. Our approach has to be across government to support prisoners.'⁵³

The Committee heard about a number of measures that have been put in place in New Zealand. Although the scope of this Inquiry and time constraints meant that these

⁴⁹ Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti and Associate Minister of Education, New Zealand Parliament, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁵⁰ Dan Giles, Programme Director, High Impact Innovation Team, Department of Corrections: Ara Poutama Aotearoa, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁵¹ Karen Gillies, Workstream Co-Lead Women's Prison Network Improvement Programme, Department of Corrections: Ara Poutama Aotearoa, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁵² Ibid.

⁵³ Ibid.

could not be examined in depth, the Committee believes these measures should be examined closely by the Victorian Government, including leaders in the justice and corrections sectors:

Measures adopted by the New Zealand Government and implemented by the corrections system include:

- Enabling increased use of non-custodial options.
- A greater emphasis placed on moving people who offend through their rehabilitation pathways faster to enable parole sooner.
- An increased use of parole as a reintegration tool.
- Electronic monitoring and bail ready:
 - When a defendant is remanded into custody they can make an application to apply for electronically monitored bail. Barriers for defendants in preparing bail applications have been identified and this has led to the placement of bail support officers in courts and in prisons who are available to talk to those who were freshly remanded to better understand why they had been refused bail, and to help obtain practical details such as home phone numbers to assist their application.
- Improvement in the timeliness and quality of advice provided to the New Zealand Parole Board and courts.
- Remand triage:
 - The HIIP program funds police prosecution staff to analyse files of defendants who are remanded in custody, prepare relevant evidence, and prioritise cases that can be resolved with less court appearances.
- Home detention resentencing:
 - A program for offenders eligible for home detention but facing accommodation barriers. Offenders are provided with a ‘leave to apply for home detention’ status.
- Parole ready:
 - Parole ready advisers have been put in place to assist prisoners to gain parole where it is safe to do so in recognition of prisoners released with little or no parole being more likely to reoffend.
- The Aukaha te Waka – the Future of Probation – program has been implemented to improve the long term capability of community probation services.
- Whānau (family) navigators pilot program:
 - Appointment of ‘navigators’ from community services to work in the community with families of offenders.
- Delivering rehabilitation that meets the specific needs of Māori offenders and partnering with Māori people in the delivery of services.

- Delivering education as a form of rehabilitation:
 - This is on the basis of the known low rate of literacy and numeracy among offenders, particularly Māori offenders, that creates barriers to rehabilitation opportunities in prison, and to employment and education opportunities in the community.
- Addressing mental health and addiction disorders as core drivers of crime:
 - According to Corrections New Zealand over 90% of prisoners have a lifetime diagnosis of mental health or substance abuse disorders.
- Improving access to stable and suitable housing.
- Improving opportunities for employment.⁵⁴

FINDING 11: New Zealand has made significant inroads into reducing their prison population without compromising the safety of the community.

RECOMMENDATION 2: That the Victorian Government engage with the New Zealand Government to explore measures which have been successful in reforming the justice system in New Zealand and reducing incarceration rates in a safe and sustainable way to support the Committee's Recommendation 1.

⁵⁴ FYI, *Official Information Request on High Impact Innovation Programme*, 2018, <<https://fyi.org.nz/request/8613/response/29835/attach/3/MIN2280%20Ti%20Lamusse.pdf>> accessed 5 July 2022; Ara Poutama Aotearoa, Department of Corrections, *Our Strategic Direction*, (n.d), <https://www.corrections.govt.nz/resources/strategic_reports/statements-of-intent/statement_of_intent_2018-2022/our_strategic_direction> accessed 5 July 2022.

4 Government needs to lead and coordinate support efforts

4.1 Introduction

In Victoria, there is no coordination or leadership in the provision of services to children affected by parental incarceration. These children are left to seek out services which are delivered primarily by non-government organisations in an ad-hoc manner.

This Chapter outlines the lack of leadership in this space and the need for better coordination to ensure that children are visible and do not fall through the cracks (see Section 4.3.1).

The Committee heard that the Government should take responsibility for leading and coordinating services for children affected by parental incarceration. These responsibilities should lie with a single department which can coordinate inter-agency and non-government services to ensure that children receive the full range of supports they need. These services should be informed by engagement with children and families affected by parental incarceration (see Section 4.4.4).

4.2 The Victorian Government is not providing the leadership needed to appropriately support children affected by parental incarceration

Currently, supports and services provided to children and young people affected by parental incarceration are ad hoc, without centralised government coordination and oversight. There is no overarching service system that identifies, monitors and provides support at each point of the incarceration process from a parent's arrest through to the post-release period.

Commissioner for Children and Young People, *Submission 33*, p. 10.

Stakeholders told the Committee that children affected by parental incarceration are often a hidden group which is not served by social supports.¹ This was attributed to a lack of government responsibility and leadership in the space, and the separation between supports for adults and for children.² As the Committee heard, leadership from government is required because no government agency, department, or unit exists

¹ See Chapter 5.

² Commission for Children and Young People, *Submission 33*, p. 13.

to support children whose parents are involved in the justice system. This represents a missed opportunity to support a cohort who are disadvantaged by their circumstance and who we know are likely to face a number of barriers to progress.

In its submission to the Inquiry, the Victorian Council of Social Service outlined how this lack of responsibility leads to children and families of incarcerated people being ‘invisible’:

Currently, there is no government department that has a clear mandate or lead responsibility to support families of individuals involved with the justice system.

There is no formal requirement for police, courts or corrections to enquire about parenting status or the status of any affected children. Therefore, at a systems level, the needs of the families of justice-involved persons are invisible to police, courts and corrections.³

This was echoed by other stakeholders.⁴ In VACRO’s submission, it was noted that:

There is no Victorian government agency with a specific mandate for this cohort, meaning there is no government body coordinating collaboration between government departments to ensure children and families receive the support they need.⁵

Adjunct Professor Aunty Muriel Bamblett AO, Chief Executive Officer of VACCA, told the Committee that accountability is needed to ensure action in response to data about children affected by parental incarceration:

Capturing the data is not the only issue that I think it is important to ask about. It takes accountability to act on the data.⁶

FINDING 12: No Victorian Government department, agency or unit has responsibility for leading or coordinating the support response for children affected by parental incarceration.

4.2.1 The Victorian Government’s responsibility to the children of parents it incarcerates

When the state and judicial system has made the decision to imprison a parent, there is an ethical imperative that the government and wider community ensure that their children are not also punished.

Safe and Equal, *Submission 25*, p. 10.

³ VCOSS, *Submission 28*, p. 9.

⁴ Marius Smith, Chief Executive Officer, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 48; Dr Catherine Flynn, Senior Lecturer, Director, Higher Degrees by Research Program and Deputy Head of Department, Department of Social Work, Monash University, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, pp. 23–25, 28; See also South East Monash Legal Service, *Submission 13*, p. 16.

⁵ VACRO, *Submission 17*, p. 6.

⁶ Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 20.

Organisations that support children affected by parental incarceration told the Committee that Government leadership and coordination is needed for multiple practical reasons. These reasons included:

- identification of affected children so they can be supported
- the development of protocols for agencies to work together
- improvements to funding arrangements
- to extend and expand existing programs in line with the demand in the community.⁷

Some stakeholders also argued that by incarcerating a parent, the government assumes a moral or ethical responsibility for the impact that incarceration has on that parent's children.⁸ South East Monash Legal Service Inc. argued that:

The Government must take responsibility for those children who are impacted by their harsh sentencing laws and imprisonment rates. This responsibility needs to then inform policies and procedures for the role that schools, specialist support services, child, youth and family services, justice and corrections systems play in caring for children affected by parental imprisonment.⁹

There are various international laws and conventions which consider the rights of children affected by parental incarceration.

International frameworks

The Committee heard that there are international frameworks that should be considered when developing protocols relating to children affected by parental incarceration. The RMIT Centre for Innovative Justice said:

Policymakers at an international level have long acknowledged the need for a differentiated response for women in the justice system, as well as the need for mechanisms to protect the rights of children. Australia has obligations under the UN Convention on the Rights of the Child to ensure that the best interests of the child is the primary consideration “in all actions concerning children”. It is therefore crucial to situate Victoria's response to children affected by parental incarceration within this context.¹⁰

⁷ Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 29; Public Health Association Australia, *Submission 21*, p. 3; Commission for Children and Young People, *Submission 33*, p. 12; See also Section 4.2.2.

⁸ Safe and Equal, *Submission 25*, p. 11.

⁹ South East Monash Legal Service, *Submission 13*, p. 20.

¹⁰ RMIT Centre for Innovative Justice, *Submission 39*, p. 5.

Liberty Victoria told the Committee that the UN Convention on the Rights of the Child (CRC)¹¹ 'set[s] a standard as to how children's rights are to be taken into account on international, regional and domestic levels.'¹² Australia ratified the Convention in 1990.¹³ The 42 articles¹⁴ of the Convention outline the fundamental civil, political, social, economic and cultural rights of a child. These include the right to:

- non-discrimination¹⁵
- life¹⁶
- identity, nationality and family¹⁷
- family reunification¹⁸
- privacy.¹⁹

Professor Nancy Loucks OBE, Chief Executive Officer of Families Outside and Chair, International Coalition for Children with Incarcerated Parents, told the Committee that key articles within the Convention are particularly relevant to children of incarcerated people:

In the case of children with imprisoned parents, there are a number of elements that are particularly pertinent, namely: article 2, the principle of non-discrimination; article 3, which is the child's best interest as a primary consideration in any decision affecting them; article 9, which is the right to contact with the parent; article 12, the right for children to have a voice in any decision that affects them directly or indirectly; and article 20, which is the right to support for children who cannot live with their parent.²⁰

A number of submitters outlined how these articles, as well as various other CRC articles, contain rights that can be jeopardised for children of incarcerated parents.²¹

Further, stakeholders pointed to the UN Rules for the Treatment of Women Prisoners and Noncustodial Measures for Women Offenders ('the Bangkok Rules', set out at

11 Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

12 Liberty Victoria, Submission 38, p. 4.

13 Australian Human Rights Commission, *About Children's Rights*, <<https://humanrights.gov.au/our-work/childrens-rights/about-childrens-rights>> accessed 24 June 2022.

14 Note: there are 54 articles within the Convention on the Rights of the Child. Of these, 42 enumerate the rights of a child while the remaining 12 outline the formalities of the treaty, such as processes for circulation and amendments.

15 *Convention on the Rights of the Child*, article 2.

16 *Convention on the Rights of the Child*, article 6.

17 *Convention on the Rights of the Child*, article 7–8.

18 *Convention on the Rights of the Child*, article 10.

19 *Convention on the Rights of the Child*, article 16.

20 Professor Nancy Loucks, Chief Executive Officer and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 2.

21 Dr Karleen Gribble, *Submission 11*, p. 3; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 18; VACRO, *Submission 17*, pp. 14, 17; Students for Sensible Drug Policy, University of Melbourne, *Submission 23*, pp. 3, 9, 11; Law and Advocacy Centre for Women, *Submission 31*, p. 8; Religious Society of Friends Quakers Victoria, *Submission 5, Attachment 1*, p. 5; South East Monash Legal Service, *Submission 13*, pp. 26–27; Commission for Children and Young People, *Submission 33*, pp. 3–4.

Box 4.1) which provide international standards for the treatment of women in the justice system.²²

BOX 4.1: Summary of the Bangkok Rules

Because women and girls represent less than a tenth of the global prison population their characteristics and needs have remained unacknowledged and largely unmet by criminal justice systems. Prisons and their regimes—from the architecture and security procedures to healthcare, family contact and training opportunities—are usually designed for men. There was also a gap existing in international standards on addressing the needs of women in the criminal justice system. In December 2010 this gap was filled when the United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders, known as the Bangkok Rules, were adopted by the UN General Assembly (Resolution A/RES/65/229). The Rules are crucial to protecting the rights of women offenders and prisoners, explicitly addressing the different needs that women have and the different situations they come from. The Bangkok Rules are also the first international instrument to address the needs of children in prison with their parent. By unanimously voting for the Bangkok Rules, 193 countries who are members of the United Nations acknowledged that women in the criminal justice system do have gender-specific characteristics and needs, and agreed both to respect and meet them.

Source: Penal Reform International, *UN Bangkok Rules on women offenders and prisoners*, 2013, online.

RMIT's Centre for Innovative Justice told the Committee that the Rules 'place a requirement on decision makers to consider the best interests of any children impacted by a woman's incarceration'.²³ For example:

- Rule 23—the suspension of family visits, particularly with children, should not be imposed as a disciplinary sanction.
- Rule 26—contact of a female prisoner with her family and children should be encouraged and facilitated by reasonable means.
- Rule 50—women whose children are with them in prison should be provided all maximum possible opportunities to spend time with their children.
- Rule 52—the separation of a child in prison from their mother should be made considering the best interests of the child.
- Rule 64—non-custodial sentences are preferred for pregnant women or women who are primary caregivers of children.²⁴

Chapter 3 also discusses the preference for non-custodial sentences in relation to parents committing minor crimes.

²² RMIT University Centre for Innovative Justice, *Submission 39*, p. 5.

²³ *Ibid.*, p. 6.

²⁴ *Ibid.*

The Victorian Aboriginal Legal Service (VALS) recommended that the Bangkok Rules be implemented in Victoria, specifically those provisions that facilitate an imprisoned woman to perform her role as mother.²⁵ It submitted:

While the Bangkok Rules specifically address the need for the government to encourage and facilitate visitation of imprisoned mothers, including measures to counterbalance disadvantages, VALS is of the opinion that the rights of the child place an obligation on the Victorian Government to implement such policies and practices in relation to the visitation of parents and other carers generally.²⁶

In its submission to the Inquiry, the Religious Society of Friends (Quakers) Victoria included a report that outlined the body of international work that recognises the rights of—and provides guidance for the treatment of—children of imprisoned parents.²⁷ These include:

- 2005 General Comment on Implementing Rights in Early Childhood—which states a child’s right to development is at risk where there is separation from parents due to parental incarceration²⁸
- the Salvador Declaration—which called for the needs of children of incarcerated persons to be addressed with consideration to their human rights²⁹
- the United Nations Revised Standard Minimum Rules for the Treatment of Prisoners (‘Nelson Mandela Rules’)—which includes a rule about the decisions of children living in prison with their parents being based on best interests of children³⁰
- Article 30 of the African Charter on the Rights and Welfare of the Child (read in conjunction with General Comment One)—which provides for the rights of children of imprisoned parents in a stand alone article³¹
- Council of Europe’s 2018 Recommendation (CM/Rec(2018)5)—which provides guidance to Member States about the need to prioritise the best interests of children affected by parental incarceration in decision-making.³²

Not all of the frameworks mentioned are binding on Australia. Those that are not still provide useful guidance on how the rights of children affected by incarceration are considered by international bodies.

²⁵ Victorian Aboriginal Legal Service, *Submission 40*, p. 14.

²⁶ *Ibid.*, p. 33.

²⁷ Religious Society of Friends Quakers Victoria, *Submission 5, Attachment 1*, pp. 5–6.

²⁸ United Nations Committee on the Rights of the Child, *General comment no. 7 (2005): Implementing child rights in early childhood*, 40th sess, UN Doc CRC/C/GC/7/Rev.1 (20 September 2006).

²⁹ *Twelfth United Nations Congress on Crime Prevention and Criminal Justice*, GA RES 65/105, UN Doc A/RES/65/230 (1 April 2011, adopted 21 December 2010).

³⁰ *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, GA RES 77/106, UN Doc A/RES/70/175 (8 January 2016, adopted on 17 December 2015).

³¹ *African Charter on the Rights and Welfare of the Child*, opened for signature 11 July 1990, OAU Doc CAB/LEG/24.9/49 (entered into force 29 November 1999); African Committee of Experts on the Rights and Welfare of the Child, *General Comment No 1 on Article 30 of the African Charter on the Rights and Welfare of the Child*, OAU Doc ACERWC/GC/01 (8 November 2013).

³² Council of Europe Committee of Ministers, *Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents (2019)*, CM/Rec(2018)5, Committee of Ministers, 1312th meeting (4 April 2018).

FINDING 13: Implementation of the Bangkok Rules would enhance the legislative framework available to protect vulnerable young people affected by parental incarceration.

Victorian legislative frameworks

Victorian legislative frameworks also set standards for consideration when legislating or developing policy for children affected by parental incarceration.

Although there is no bill of rights at a Commonwealth level in Australia, Victoria has the *Charter of Human Rights and Responsibilities Act 2006* (the Charter), which incorporates a number of rights found in international human rights frameworks.³³

Dr Alannah Burgess, PhD in Social Work, explained in her submission that a number of rights are relevant to female offenders performing the role of mother from prison. This arguably extends to considerations about the rights of children affected by parental incarceration. Dr Burgess said:

Of particular relevance to female offenders, the *Charter of Human Rights and Responsibilities Act 2006* stipulates that everyone is entitled to equality before the law, with special consideration given to attributes – such as sex, parental status, and pregnancy – that can disproportionately impact individuals ('Section 8'). Families and children are protected, including prisoner-family relationships and children who reside in prison with their mothers ('Section 17'), and lastly prisoners are entitled to humane treatment and services ('Section 22').

...

Therefore, within the context of the Victorian *Charter of Human Rights and Responsibilities Act 2006*, the impact of gender, particularly the mothering role, must be acknowledged within correctional practice. However, this act only provides guidance. There is no mechanism for enforcement if parliament, courts, or public authorities such as the criminal justice system, do not comply with these rights.³⁴

The *Children, Youth and Families Act 2005* (CYFA)³⁵ entrenches into law the 'best interest' principle. It states that where decisions are made under the Act, the best interests of the child must be paramount,³⁶ with considerations including:

- the need to strengthen, promote and preserve positive relationships between children and their parents, family members and other significant persons
- children's views and wishes

³³ Dr Alannah Burgess, *Submission 10, Attachment 1*, p. 31; RMIT University Centre for Innovative Justice, *Submission 39*, p. 5. For the rights basis of the Victorian Human Rights Charter, see the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights.

³⁴ Dr Alannah Burgess, *Submission 10, Attachment 1*, p. 31.

³⁵ *Children, Youth and Families Act 2005* (Vic), s 10

³⁶ *Ibid.*, ss. 8, 10, 11.

- contact arrangements between children and their parents, family members and other significant persons.³⁷

CYFA is one framework that provides support for children of incarcerated parents.³⁸ However the main focus of the Act is outlining conditions in which Department Secretaries or Ministers can step into protect children from harm. It also provides for court procedures for children in contact with the justice system.

FINDING 14: Stakeholders believe that there are international agreements and Victorian legislative frameworks that obligate the Victorian Government to support children affected by parental incarceration.

4.2.2 Organisations supporting children affected by parental incarceration are asking for Government leadership and coordination

Services targeted specifically at children and young people affected by parental incarceration are largely reliant on community service initiatives, by not-for-profit organisations such as VACRO, Flat Out and SHINE for Kids. These organisations provide a range of programs and resources to support children and young people to establish and maintain connections with incarcerated parents, some of which are funded by Corrections Victoria. The scope and reach of the programs are limited by funding, location, and poor and inaccessible data collection. Consequently, the services available to a child or young person depend on where they live in Victoria, the location of the prison in which the parent is held and whether these services have been able to identify or reach the children and young people in need of their services

Commissioner for Children and Young People, *Submission 33*, pp. 12–13 (with sources).

Throughout the Inquiry, the Committee was privileged to engage with organisations that are working to support the children and families of incarcerated parents (for more see Chapter 8). These organisations vary in structure and funding sources, with a mixture of volunteers, paid staff, philanthropic funding and some government funding.

These organisations provide a variety of support services directly to children and families, as well as people who are incarcerated themselves. However, the Committee heard that the organisations are limited in the work they can do by the lack of government leadership and coordination in this space. This is particularly pertinent as it is the actions of the government against parents which result in the need for support—yet the response from government for this cohort is non-existent.

³⁷ Ibid., p. 10(13).

³⁸ Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, research paper, Melbourne, Victoria, January 2022, p. 8.

Professor Nancy Loucks, Chief Executive Officer of Families Outside and Chair of the International Coalition for Children with Incarcerated Parents, told the Committee that support services should not be acting alone:

Finally, I just want to end by saying that designated support services such as Families Outside—and you have Shine for Kids in Australia, for example—can be really valuable in accruing considerable specialist expertise, but they should not be acting alone. To make things last, to make lasting change, we need to create support and policies and practice that are holistic and pervasive and connective. We need to make sure that these children and families are safe, that they are valued and that they are heard.³⁹

April Long, National Operations Manager at SHINE for Kids, told the Committee of the need for a holistic approach that joins systems, rather than leave support for children affected by parental incarceration to the volunteer and community sector:

we need shared objectives and policies to facilitate that joint working so that we can have that whole-of-family approach. Largely the current situation that we have in this state is that support for children with a parent in prison and their families is being left to the voluntary and community sector. Shine for Kids wants to acknowledge those other community organisations doing great work. Whilst they are providing excellent services individually and they have built up significant expertise over time, that does not conceal what is a systematic failure in being able to join up our systems.⁴⁰

This view was shared by stakeholders to the New South Wales Parliament's Inquiry into Support for children of imprisoned parents in New South Wales, which noted:

A common theme from this inquiry was that children of imprisoned parents are 'an invisible group' to policy makers. The Committee considers that creating a role that is responsible for monitoring, supporting, and advocating for these children will fill a crucial gap in the provision of services aimed at them.⁴¹

The Committee commends the people and organisations that are working hard to support children affected by parental incarceration in Victoria. The knowledge and expertise held by these organisations, and the willingness to share insights, has greatly assisted the Committee's work.

FINDING 15: Organisations that provide support for the children of parents affected by incarceration are calling for Government leadership to better serve their work and the children they support.

³⁹ Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 3.

⁴⁰ April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 11.

⁴¹ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, p. 21. (with sources)

4.3 Lack of government leadership increases the risk of harm to children affected by parental incarceration

A colleague at Children of Prisoners Europe shared their experience of a mother who was sent to prison for pre-trial detention, leaving her two-year-old daughter behind. She had had a very bad experience with state intervention when she was growing up, so she left a message for a neighbour to look after the child and did not tell anyone else the child was there. Unfortunately the neighbour did not receive the message and the child died of dehydration. So not only do questions about children need to be asked routinely and systematically but also the people who are being asked need to have confidence in what is being asked and why.

Professor Nancy Loucks OBE, *Transcript of evidence*, p. 2.

I am aware of a young girl—I think she was 13 or 14—who was left in a car. Her mother went to a parole appointment and was arrested at the parole appointment, and the kid was left in the car. I certainly know of another young woman who was left at home for a number of weeks, because her mum was arrested, until somebody managed to go and say—I think she was 15—‘You can’t stay here on your own’. I have also heard of small children being left with solicitors at court. So despite the fact that the state is removing the parent, it takes no responsibility for the care or whereabouts of any dependent children.

Dr Catherine Flynn, *Transcript of evidence*, p. 24.

The impact of the absence of leadership and coordination is significant. The Committee heard that support for children affected by parental incarceration is delivered in an ad-hoc manner, often through incidental contact with other support systems. Further, it heard experiences of people falling through the cracks in this situation, as the lack of a well-coordinated system puts the onus on families to seek access to support. The Committee also heard that the lack of leadership results in poor communication between government departments and agencies, and that—combined with the inadequacies in data-gathering (see Chapter 5)—has resulted in a failure to monitor and plan for this cohort of Victorians.

A further result of the lack of leadership and coordination is an over-burdening of non-government service organisations that directly support children affected by parental incarceration. However, the community sector is unable to provide the system-wide leadership and coordination that is needed to ensure supports are available for those who need them. As such, many of these organisations advocated for greater government leadership in the space.

These issues were canvassed in the submission from the Commission for Children and Young People, which are presented in Box 4.2

BOX 4.2: Commission for Children and Young People description of the consequences of a lack of ‘overarching services system framework’ for children affected by parental incarceration

The absence of an overarching service system framework to identify and respond to the needs of children and young people affected by parental incarceration in Victoria means that service provision is driven by the functions, priorities and responsibilities of existing service systems.

This approach has the following consequences:

- data collection, monitoring and reporting about this vulnerable cohort is limited (as outlined above)
- identification of children and young people who may need support is inconsistent
- development and evaluation of policy and practice is impeded by the lack of a strong evidence base
- the views and wishes of the child and young person and their families are frequently not sought, and pathways to participate in decision-making are limited
- responses to ‘common clients’ across systems lack coordination and integration
- information-sharing across agencies is limited so the needs of children and young people may be overlooked, and assessment of risks or needs may be based on incomplete information
- no agency is responsible for independent oversight of the service system response, meaning there is a lack of accountability and oversight to drive system improvements.

Source: Commission for Children and Young People, *Submission 33*, pp. 10–11.

The Commission’s list of consequences was reflective of the assessment of many of the Inquiry’s stakeholders. The following sections outline this evidence, centred around three interrelated themes:

- people falling through the cracks
- support delivered in an ad-hoc manner
- the onus falls on families to find and access support.

4.3.1 People falling through the cracks

one of the saddest things was on the Sunday night, and it was after the school holidays when they said she was out, on the Sunday night he was like in yarn time, “I really wanna see mum, I think we should find her.” And I said “yep, I’m gonna do everything to find her this week.” And by the Wednesday, just by accident, someone text me and said, did she pass away? And then I had to do all of the chasing and following up to try and find out if that was true. And she actually passed away on that Sunday.

What would have made it different is the services that are connected to mum seem to be one set of services, and the services connected to the children are a different service. And I was often told that mum is not our client, and that to me is wrong. And unless it is coordinated—all of those service people for mum should have known who we were and how to get in contact with us, gave my details out to service after service all the time, but I seemed to be the one chasing information

A submitter connected to Elizabeth Morgan House, *Submission 42*, 14:51–16:05.

The Commission for Children and Young People noted in its submission that it has observed different service systems working together to respond to parental incarceration.⁴² However, the Commission also expanded on how the lack of appropriate leadership leads to people falling through the cracks of the system:

The Commission has also observed instances of services within these systems assuming that the needs of incarcerated parents and their children had been, or would be addressed by other service systems, and consequently opportunities to provide support and build connection between parents and children have been missed or delayed.⁴³

The Commission believed that services are often only provided to children affected by incarcerated parents when they intersect with other existing systems:

The support needs of children, and parents in prison, appear to be addressed only when they intersect with the responsibilities and functions of these existing systems [child protection, education, health and corrections]. Where these needs cut across service systems, the service response frequently lacks coordination, integration and oversight.⁴⁴

VACRO’s submission argued accessing ‘linked-up support’ is difficult due to the lack of leadership, along with lack of data collection (see Chapter 5):

the Victorian government does not monitor this cohort, or include them in in systems planning, meaning that accessing linked-up support is difficult if not impossible. As a service provider we see the effect of these failures: the children and families we work with often fall through the gaps of a fragmented service system. Without addressing these two system failures, the government cannot engage in the necessary monitoring, policy development, and service planning.⁴⁵

⁴² Commission for Children and Young People, *Submission 33*, p. 11.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ VACRO, *Submission 17*, p. 6.

4.3.2 Support is delivered in an ad-hoc manner

Stakeholders told the Committee the reason people fall through the cracks in services is that the lack of leadership and coordination necessarily leads to ad-hoc service provision. Leigh Garrett, Chief Executive Officer of OARS Community Transitions in South Australia, described the challenge of trying to provide services in this environment:

We are in a position where we just try to find ways to get funding to deliver things that nobody else is doing and hope that governments and correctional authorities will pick up on those services and funding opportunities over the long term.⁴⁶

Dr Catherine Flynn, of Monash University, told the Committee:

we have really great programs that run during imprisonment, but again very ad hoc, very driven by, you know, what people can do.⁴⁷

The Victorian Council of Social Service's submission noted both the lack of systemic data collection and formal responsibility to see children affected by parental incarceration as 'clients' of the system:

At an individual level, VCOSS members note that justice system representatives may sometimes enquire about parenting status in certain circumstances (for example, where an arrest is made at home, or where the representative is a parent themselves), but this is ad hoc. There is no consistent, systemic approach. Furthermore, in circumstances where children are identified, the criminal justice system has no formal responsibility. Affected third parties are not recognised as "clients" of justice services, acquitting police, courts and corrections of any responsibility for or to children and families.⁴⁸

4.3.3 The onus falls on families to find and access support

This situation, with a lack of leadership and ad-hoc service delivery, leaves the onus on families to find support services, or support services to find families, with no government monitoring or leadership to link the two. The Committee heard from a number of people with lived experience who identified this struggle.

Brendan, who spoke to the Committee at Loddon Prison, told the Committee that his mum was scared to try and reach out for help when his father went to prison:

My dad was arrested and there wasn't any help for mum. I don't think she wanted to ask. She didn't want them thinking she couldn't cope and getting her kids taken away. She was too scared to ask.⁴⁹

⁴⁶ Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 8.

⁴⁷ Dr Catherine Flynn, *Transcript of evidence*, p. 26.

⁴⁸ VCOSS, *Submission 28*, p. 9.

⁴⁹ Brendan, A father incarcerated at Loddon Prison, Committee site visit, supplementary evidence received 27 April 2022.

A submitter connected with Elizabeth Morgan House spoke about the constant battle to engage with support services, which they only knew about because they worked in the sector:

Another carer wouldn't be able to do that. They just wouldn't know where to go, what to do, and how to do that. And they don't get any information from the caring agency for the kid because you've got no right to get it. So it's more just pushing, pushing and asking and doing that, whereas actually, if that agency and person doing case planning or support for mum or any other parent, they've gotta be connected to that child agency to make that work.⁵⁰

Dr Flynn told the Committee that this can be a struggle for families and leaves many unsupported:

Families often struggle to connect with services. Families bring a degree of shame, and the ability to ask for help is a tough gig. So the not-for-profits who carry the work in this sector have to go and find families, and they do that very well, but we also know that they reach a very small proportion of families. So support for children is not guaranteed, and we certainly know that children do experience ongoing grief and certainly some fairly significant mental health problems.⁵¹

Professor Susan Dennison, Director of the Transforming Corrections to Transform Lives program, similarly told the Committee:

The burden is likely left to families to navigate a very complex array of potentially useful government and non-government services, and to be quite blunt, they are falling through the gaps of these service systems and agencies.⁵²

South Australia's Commissioner for Children and Young People recognised a similar issue in their 2022 report, *Join the Dots*:

Currently, services place the onus on children and families to present themselves to service providers, often only when problems have already escalated. Yet families report that this is made difficult by barriers, including the stigma and secrecy surrounding incarceration, and a fear of intervention from statutory authorities that will not be supportive of keeping families together.⁵³

The Victorian Aboriginal Child Care Agency's submission described poor coordination leading to children and families missing out on services, particularly noting a lack of communication between criminal justice and child protection systems.⁵⁴

⁵⁰ A submitter connected to Elizabeth Morgan House, Submission 42, 16:05-16:40.

⁵¹ Dr Catherine Flynn, *Transcript of evidence*, p. 24.

⁵² Professor Susan Dennison, *Transcript of evidence*, p. 29.

⁵³ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 4.

⁵⁴ VACCA, *Submission 29*, p. 13.

FINDING 16: Government leadership and coordination of support and services for children affected by parental incarceration is needed. A lack of coordination leads to various negative outcomes. These include ad-hoc provision of services in which people fall through the cracks and are left to seek support themselves, often while overcoming significant barriers. The result is an environment in which many children and families in need of support do not receive it.

4.4 Government leadership is needed to improve the support provided to children affected by parental incarceration

4

It is clear to the Committee that the lack of government leadership and coordination in this space is resulting in poor outcomes for children affected by parental incarceration. This Section will discuss how the Government can provide this leadership, taking into account the views of those working in the area. In considering the best way for the Government to provide leadership, the Section will examine the expertise and priorities of various Government departments, and the need to hear directly from children and families affected by parental incarceration.

Ultimately, the Committee recommends that Government assume leadership by allocating responsibility for the provision of services to children affected by parental incarceration to a dedicated unit or agency within a department. This unit or agency should have, among other things, a coordinating role which supports and enables service organisations to best respond to the needs of children affected by parental incarceration. This Section sets out more information about the recommended oversight body.

4.4.1 Leadership and coordination responsibilities should sit with a single body

[We recommend] that the Victorian Government establish a coordinated service system framework to ensure children and young people affected by parental incarceration are identified and receive targeted support. A lead agency should have overarching responsibility for coordinating services to this group, and services should be subject to independent oversight.

Commissioner for Children and Young People, *Submission 33*, p. 2.

Most stakeholders agreed that a dedicated point in government must be established to lead and coordinate support for children affected by parental incarceration.⁵⁵

⁵⁵ Marius Smith, *Transcript of evidence*, p. 48; Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 8; VACRO, *Submission 17*, p. 7; VCOSS, *Submission 28*, p. 10.

The Commissioner for Children and Young people advocated for a single body that would be responsible for the:

- coordination of responses to children whose parent is incarcerated across departments and agencies, including Victoria Police, Corrections Victoria, the Department of Education and Training and schools, Child Protection, child and family services, out of home care services, and the Department of Health
- development of interagency guidance and protocols, and evaluation of evidence-based policy and practice responses in consultation with children and young people and their families, together with relevant departments and agencies
- collection, monitoring and reporting of data on children and young people affected by parental incarceration
- facilitation of information sharing across relevant agencies, including via use of the existing Child Information Sharing Scheme.⁵⁶

To enable appropriate governance and good practice working across departments, South East Monash Legal Service cited research that recommended such an agency be supplemented by an inter-agency working group which:

- advises on cross-departmental matters
- provides oversight
- develops guidelines and protocols on issues such as information sharing.⁵⁷

In its submission, SHINE for Kids advocated for the introduction of policy guidelines that identify children of incarcerated people as a specific vulnerable cohort. The guidelines should outline who has responsibility for providing care and support across multiple government departments.⁵⁸

VACRO's submission argued for a similar approach, where children and families of people in the justice system are recognised as a 'client group' that the Victorian Government should be held accountable for. Further, the submission contended that support responses must be inter-departmental:

Families must be recognised as a valid client group by the Victorian government and supported with appropriate services for the duration of their involvement with the justice system. Government should adopt an inter-departmental, systems planning approach to policy and service provision to address the needs and rights of families in contact with the justice system.⁵⁹

⁵⁶ Commission for Children and Young People, *Submission 33*, p. 14.

⁵⁷ Monash University Criminal Justice Research Consortium, *The impact of incarceration on children's care: a strategic framework for good care planning*, report prepared by Chris Trotter, Catherine Flynn, Bronwyn Naylor, Paul Collier, David Baker, Kay McCauley, Anna Eriksson, Paula Fernandez Arias, Tess Bartlett, Phillipa Evans, Alannah Burgess, Bianca Blanch, Monash University, online, 2015, p. 61–In South East Monash Legal Service, *Submission 13*, p. 20.

⁵⁸ SHINE for Kids, *Submission 19*, p. 38.

⁵⁹ VACRO, *Submission 17*, p. 4.

The Victorian Aboriginal Child Care Agency's submission emphasised the need for better communication and responsibility across government agencies. The Agency also advocated for a dedicated service supporting relationships between parents in prison and their children:

Creating a more coordinated response to support the children of imprisoned parents needs to involve establishing clear lines of communication, accountability, and responsibility between child protection, the criminal justice system, and other relevant support services, including the ACCO sector. These service sectors must work together to address the complex and multifaceted needs of children, their imprisoned parent and their extended family. This should include having a dedicated service role for supporting imprisoned parents to establish and strengthen their relationship with children, through the provision of family support services all the way through to facilitating contact.⁶⁰

FINDING 17: Various models for Government leadership and coordination to support children affected by parental incarceration were presented to the Committee. Some focussed on a lead Government department or agency supported by inter-departmental cooperation. Others focussed on the importance of inter-departmental cooperation, without a strong desire for a lead agency.

The Committee believes that government leadership and coordination in this space would be most effective if it was led by a single body. Currently, the lack of a single point of contact for services has inhibited families trying to access support. The Committee asserts that assigning responsibility across multiple departments does not alleviate this problem.

While responsibility for leadership and coordination should sit in one place, this does not—and should not—prevent child-centric policies and practices being implemented across other relevant government departments and agencies. The Committee recognises that the complex needs of children affected by parental incarceration are unlikely to be served by a single unit or agency within a department. Responsibility should be centralised, but support for children and families affected by parental incarceration should be appropriately shared.

FINDING 18: To provide effective leadership and coordination of support services for children affected by parental incarceration, responsibility for this vulnerable cohort should be assigned to a government body. A unit, branch or agency within a department should lead and coordinate work across other departments and agencies as appropriate. The coordinating body should retain overall responsibility for advocating for and supporting this cohort.

⁶⁰ VACCA, *Submission 29*, p. 14.

4.4.2 Leadership and coordination responsibilities should sit within the Department of Families, Fairness and Housing

When stakeholders considered the most appropriate lead agency to assume responsibility for children affected by parental incarceration, most indicated that the work should sit within the Department of Families, Fairness and Housing rather than the Department of Justice and Community Safety (which includes Corrections Victoria).⁶¹ VACRO's submission justified this preference by highlighting the need for a human service-focussed lead portfolio:

Designating a human services responsibility for this cohort within government would allow for the collection of data on – and the designing of – service responses for such families.

... the infrastructure and expertise to provide services to vulnerable families is only found in the human services portfolio.⁶²

Similarly, the Centre for Excellence in Child and Family Welfare recognised the Department of Families, Fairness and Housing was 'best placed to provide this support due to their existing mandates and experience supporting work with children with complex needs.' The submission outlined the proposed role of the new body:

[It] would maintain a focus on the rights and needs of the child in family engagement work, coordinate service responses and work closely with CV and child protection to achieve positive outcomes for children affected by parental incarceration. It would also look to the ways that other workforces, such as child and family services, including out-of-home care services, delivered by community services organisations (CSOs) can better meet the needs of these children.⁶³

Victorian Council of Social Services' submission included their vision of how a Department of Families, Fairness and Housing-led response could work, which is set out in Box 4.3.

61 Marius Smith, *Transcript of evidence*, p. 48; VACRO, *Submission 17*, p. 19; VCOSS, *Submission 28*, pp. 10–11.

62 VACRO, *Submission 17*, p. 7.

63 Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 8.

BOX 4.3: Victorian Council of Social Service’s vision for a Department of Families, Fairness and Housing-led response to supporting children affected by parental incarceration

We seek to support and strengthen care arrangements that enable children’s connection to family, culture and community. Therefore, in recommending DFFH “responsibility” for affected children, we envisage an approach that:

- Accords formal recognition to this group of children.
- Builds an understanding across DFFH of their unique needs via improved data collection and analysis. (This data could then be used to design and target resources – for example, for children and families in non-statutory kinship care arrangements).
- Leverages DFFH resources and coordinates with other parts of government (such as DET) to provide supportive child and family-centred responses that meet children’s individual wellbeing needs.
- Is voluntary. Where families/carers choose to engage and/or access support, this engagement should not give rise to obligations.

Source: Victorian Council of Social Service, *Submission 28*, p. 10.

The Committee agrees that children affected by parental incarceration would be best served by a government response led by the Department of Families, Fairness and Housing. The Committee supports the considerations presented around the need for a human service focus, and considers that the existing expertise and mandate around supporting children with complex needs indicates that the Department is best placed to lead the responsibility for this cohort. The Committee believes a government response is necessary and appropriate as government actions against the parents have resulted in children needing support.

FINDING 19: The Department of Families, Fairness and Housing, with its existing expertise and mandate around supporting children with complex needs, is considered as best placed to lead the support response for children affected by parental incarceration.

4.4.3 Government should lead through coordination of services

In recognising the need for a designated government department or agency to lead work in this space, much of the Committee’s evidence advocated for this to be predominantly a coordinating role rather than a service provider. Stakeholders envisioned that the agency would work with and across other government departments

and non-government service organisations. South East Monash Legal Service Inc.'s submission articulated the need to resist creating a government intervention response:

The state has a role in contributing to the wellbeing of these children by investing in tailored, culturally safe and trauma informed services and support. We recommend a coordinating role (rather than interventionist role) whereby the Government would coordinate specialised and appropriate services (funded by Government) to care for the wellbeing of these children and mitigate the impacts of parental imprisonment.⁶⁴

Victorian Council of Social Service's submission noted Department of Families, Fairness and Housing has 'expertise coordinating and commissioning social services to support families with complex needs':

DFFH also has a history working with Department of Education and Training (DET) to provide support to vulnerable children in schools and other education settings, an approach that could be expanded to meet the specific needs of children affected by parental justice involvement.⁶⁵

Under this remit, the Department of Families, Fairness and Housing would fund existing community services to provide direct support to those families and children in need. VACRO's submission advocated for this approach, highlighting the preference of some families to work with service organisations rather than government directly:

The services themselves must be provided by community services with specialist capacity and knowledge in both family work and criminal justice reintegration. These services play a different role from government ... It should be noted that participants have also expressed to our staff that they prefer to contact community organisations for family support because of concern about DFFH's power to remove children from them.⁶⁶

To be clear, we do not suggest that government should take on a statutory role in taking responsibility for, or providing service responses to, the children of incarcerated parents. Rather, the Victorian Government needs to commit to developing systems that identify children whose parents are incarcerated, so that their support needs can be assessed and provided for and so that, where possible and in the best interests of the child, family reunification can be achieved. This service provision should be led by specialist community services, particularly Aboriginal Community Controlled Organisations when appropriate, to minimise further contact with statutory services and/or the justice system.

Safe and Equal, *Submission 25*, p. 11

Safe and Equal's submission advocated for investment in community led supports to address systemic gaps.⁶⁷ The need for funding to community organisations is further discussed at Chapter 8. The Committee agreed that the Department of Families,

⁶⁴ South East Monash Legal Service, *Submission 13*, pp. 14-15.

⁶⁵ VCOSS, *Submission 28*, p. 10.

⁶⁶ VACRO, *Submission 17*, p. 8.

⁶⁷ Safe and Equal, *Submission 25*, p. 14.

Fairness and Housing should assume responsibility and accountability for monitoring those in need and coordinating appropriate services. The Committee believes that existing community service organisations working to support children affected by parental incarceration should continue to lead the service provision. However, the Departmental response should provide increased funding, data collection and other supports to these organisations. The government department should have a specific mandate to provide services and referrals through arrangements with external organisations with established expertise and relationships.

FINDING 20: In leading services for children affected by parental incarceration, the Department of Families, Fairness and Housing should adopt a coordination model whereby services are delivered by service organisations with relevant experience and expertise. As part of the remit, the Government must provide adequate data, funding, data collection and other coordinating activities to allow service organisations to effectively support these children.

4

The Committee's recommendation on this issue is on page 71.

4.4.4 Response design should include voices of impacted children and families

First and foremost is prioritising lived experience expertise. In all my work across the legal space I have knowingly come across three others who have experienced parental incarceration in their childhood. To be someone with lived experience working in a space relevant to your experience often means watching your very personal experiences being studied, intellectualised and academicised; constantly hearing the odds and statistics that are stacked up against you; watching colleagues without lived experience discover with horror countless issues with systems and practices of policing and incarceration, issues that are known to me as common sense—it is ever apparent to me that I cannot relate to the upbringings of most people in my professional life; we have very different ideas of what is a universal experience—and watching in despair as future generations continue to be impacted in exactly the same ways while recommendations from countless inquiries and commissions remain unimplemented.

Rachael Hambleton, Board Member, Flat Out Inc., *Transcript of evidence*, 31 March 2022, p. 39.

Throughout the Inquiry, the Committee spoke to a number of people who experienced parental incarceration during their childhood. These experiences highlighted a number of key needs for any service design, such as a support system with an accessible single point of contact. The Committee urges the Victorian Government to recognise the importance of listening to the voices of children and families affected by parental incarceration in designing better systems to respond to the needs of these families. Safe and Equal, in its submission, emphasised this point:

This work should be underpinned by consultation and codesign with lived experience advocates, including children and young people, as well as relevant service sectors

including Aboriginal controlled organisations, specialist family violence and youth services, mental health and homelessness services.⁶⁸

A submitter to the Inquiry with experience of parental incarceration also advocated for the inclusion of the voices of impacted children and families. They said:

I believe considering lived experience is of paramount importance when considering how such supports and services are to be improved. Such an experience is incredibly unique, and I believe some form of consultation with individuals who know what it's like is the only way forward.⁶⁹

This was echoed by other stakeholders,⁷⁰ including the Victorian Council of Social Service, which in its submission advocated for this approach:

VCOSS believes DFFH [Department of Families, Fairness and Housing] is well-placed to lead the development of this new approach, the design and implementation of which should involve deep engagement with community and people with lived experience.⁷¹

The Commission for Children and Young People agreed, stating that:

It is critical that decision-makers consult with children, young people and families with lived experience of parental incarceration to ensure their voices are heard, shape reforms and guide implementation. The service system should also be culturally safe, tailored to respond to specific vulnerabilities and complement existing services, like out-of-home care and youth justice.⁷²

The Committee reiterates the need for future system models to consider the unique needs of children and families affected by incarceration and be guided by the input of children or adults who have lived through parental incarceration.

FINDING 21: Including meaningful engagement with children affected by parental incarceration and their families in the Government's process for designing and delivering an improved system for supporting their needs is an important part of creating a more effective system.

4.4.5 The Committee's view on Government leadership through coordination of services

The Government is not providing the leadership necessary to properly support children affected by parental incarceration. The lack of Government responsibility for families affected by incarceration has resulted in many children and families in need being

⁶⁸ Ibid.

⁶⁹ Name Withheld, *Submission 18*, p. 2.

⁷⁰ VACCA, *Submission 29*, p. 11; Commissioner for Children and Young People South Australia, *Submission 15*, Attachment 1, p. 5; VCOSS, *Submission 28*, p. 10; Commission for Children and Young People, *Submission 33*, p. 2.

⁷¹ VCOSS, *Submission 28*, p. 11.

⁷² Commission for Children and Young People, *Submission 33*, p. 2.

unable to access support services. Those that do, do so more by happenstance than design.

The Committee acknowledges that non-government service organisations are working hard to support these children. However, from the accounts of these organisations, their efforts are currently unable to reach all the children in need—or even know how many children there are in need and what those needs are—without leadership from Government.

The Committee's findings above conclude that these failings in leadership must be addressed to improve the support available to children affected by parental incarceration. The Committee recommends that a coordinated response should be led by a single agency, branch or work group within the Department of Families, Fairness and Housing. The body should have designated responsibility for leading the support response for those children and coordinating service provision across the state. The body's mandate should include coordinating support across other relevant parts of Government, and importantly, should coordinate the non-government service organisations that are working directly with those in need. Development of this body and any protocols, practices or policies should be informed by genuine ongoing engagement with children and families affected by parental incarceration.

RECOMMENDATION 3: That the Victorian Government consider establishing a dedicated unit, branch or agency within the Department of Families, Fairness and Housing which has a specific mandate to respond to children and families of people affected by parental incarceration. This body should lead a cross-departmental response framework responsible for funding and coordinating the provision of specialist family service and social supports. This system should:

- be designed in consultation with lived experience advocates
- be anchored in and led by the Department of Families, Fairness and Housing to ensure existing social support infrastructure can be utilised
- have a specific remit to coordinate support for the families of people who are incarcerated before, during and following their incarceration by working with and through service organisations—including non-government service organisations—that directly engage with impacted families to deliver the most appropriate forms of support.
- have extensive data collection and research capabilities, or fund such capabilities amongst service organisations—including non-government service organisations—to inform ongoing policy decisions and supports.
- provide funding to service organisations—including non-government service organisations—for protective supports to mitigate short-term and long-term impacts of family member incarceration, including therapeutic, education, or social supports.

5 Bringing children into view

5.1 Introduction

Children of imprisoned parents have been consistently described as ‘invisible’ or ‘unintended’ victims of crime, as ‘orphans of justice’ or simply as the ‘collateral damage’ of the everyday workings of the adult criminal justice sector. Despite this recognition, little has been achieved to prevent or ameliorate these impacts.

Dr Catherine Flynn, *Submission 27*, p. 4.

It is not possible to solve a problem you cannot see. Sadly, that is the situation the Committee has found in Victoria’s response to children affected by parental incarceration—the true extent or nature of the problem is not visible.

This Chapter discusses the inadequate understanding of children affected by parental incarceration and their needs, which has been brought about by the failure of governments to systematically collect data about these children or to consider them within the context of the justice system. The lack of understanding includes basic information, such as how many children are impacted, and more complex information, such as what their particular needs are. To begin to address these issues, the Committee has recommended that the Government implement systematic data collection processes through consultation with relevant service organisations—including non-government service providers—children and families affected by parental incarceration, and Victoria’s Information Commissioner. This data should then be used to monitor and respond to the needs of this cohort.

Section 5.3 discusses evidence regarding data collection processes within Corrections Victoria and other government agencies, along with criticisms of those processes. Section 5.4 describes how improved data collection can inform better service provision for children affected by parental incarceration.

The Committee heard recommendations and concerns around who collects data and how the collection is implemented. These issues include privacy concerns and the effects of a lack of trust in Government from those who can best provide data. This is discussed in Section 5.4.

5.2 Data about children affected by parental incarceration is not collected or shared in a way that supports services

There is a concerning lack of data into how many children have parents in prison, how they are impacted, what support they currently have and what support is lacking. There is no formal process, no specialised support or teams to care for these parents or their children, no government departments in charge of monitoring and reporting.

South East Monash Legal Service, *Submission 13*, p. 16.

One of the strongest and most consistent messages the Committee heard throughout this Inquiry was the need for a better understanding of children affected by parental incarceration. Over and over again, the Committee heard that due to the lack of systemic data collection and sharing, there is not enough information available about these children. It is not known how many children are affected, who and where they are, and what needs they have.¹ Dr Catherine Flynn, of Monash University, told the Committee:

a key problem in both understanding and responding to the issues faced by children is the absence of data. We cannot plan; we cannot plan services or supports and we cannot develop policy without actually knowing what we are dealing with. So there is no data—well, data is gathered but not in any effective and usable way. So when I say no data is gathered, no usable data is gathered by any adult system with which the parents interact, but it is also true of child-focused systems.²

The Commission for Children and Young People, in its submission, supported this assessment:

The Commission understands that, currently, there is no source of detailed government data recording the demographics of children and young people affected by parental incarceration such as their location, educational engagement, living arrangements, age or disability status.³

1 Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 20; Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 6; April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 11; Dr Catherine Flynn, Senior Lecturer, Director, Higher Degrees by Research Program and Deputy Head of Department, Department of Social Work, Monash University, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 23; Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 35; Rachael Hambleton, Board Member, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 39; Glen Fairweather, General Manager, Prison Fellowship Australia, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 16; Commission for Children and Young People, *Submission 33*, p. 2; Dr Karleen Gribble, Adjunct Associate Professor, School of Nursing and Midwifery, Western Sydney University, *Submission 11*, p. 2; South East Monash Legal Service, *Submission 13*, pp. 11, 6; VACRO, *Submission 17*, p. 16; SHINE for Kids, *Submission 19*, pp. 9–10; VCOSS, *Submission 28*, p. 8; VACCA, *Submission 29*, pp. 2–5; Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 1; Commission for Children and Young People, *Submission 33*, p. 5.

2 Dr Catherine Flynn, *Transcript of evidence*, p. 23.

3 Commission for Children and Young People, *Submission 33*, p. 5.

Beyond data collection, the Commission for Children and Young People highlighted the need for ‘regular consultation with the children and young people affected by parental incarceration, their families and service providers.’⁴

Children whose parents are imprisoned remain largely invisible and are a highly vulnerable group whose rights and welfare are affected at every stage of criminal proceedings against their parent.

SHINE for Kids, *Submission 19*, pp. 9–10.

The Committee heard the lack of mandated systemic data collection extends to particular populations which may require specialised services, such as services for pregnancy and childbirth. This included data on the separation of mothers and newborns and the use of mother and baby units.⁵

This lack of data collection also impacts on the inability to properly evaluate programs. In its submission, SHINE for Kids stated that:

At a state and national level there is lack of robust, long-term evaluations of policies and programs addressing the intergenerational impacts of incarceration and effectiveness of programs and policies supporting children of prisoners and their carers.⁶

Leigh Garrett, Chief Executive Officer at OARS Community Transitions in South Australia, gave an example of a lack of data hampering evaluation efforts. Leigh told the Committee that the organisation delivers programs to women released from prison but that they could not evaluate it due to a lack of data:

We do deliver support in a number of our funded programs to women being released from prison with their children, but again, it is not something that we have been able to get a handle on in terms of data or to evaluate. We do not have that much money.⁷

VACCA and Liberty Victoria both called for better evaluation of programs for children affected by parental incarceration in order to ensure that the programs are achieving their aims.⁸

The Committee notes that Corrections Victoria collects data relevant to the parental status of people being received into prison. This is discussed further in Section 5.3.1.

FINDING 22: Data about children affected by parental incarceration is not collected or shared in a way that supports effective services for these children. This negatively impacts the ability to plan, fund, deliver and evaluate services.

⁴ Ibid.

⁵ Dr Tatiana Corrales, Research Fellow, Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, *Submission 16*, pp. 2, 4, 6.

⁶ SHINE for Kids, *Submission 19*, p. 10 (with source).

⁷ Leigh Garrett, Chief Executive Officer, OARS Community Transition, public hearing, Melbourne, 9 May 2022, *Transcript of Evidence*, p. 5.

⁸ VACCA, *Submission 29*, p. 3; Liberty Victoria, *Submission 38*, pp. 7–8.

This problem is not unique to Victoria. Other Australian jurisdictions⁹ and other countries¹⁰ face similar issues. Professor Nancy Loucks, Chief Executive Officer of Families Outside and Chair of the International Coalition for Children with Incarcerated Parents, told the Committee:

Another risk of course is not recognising children at all. The UN's Standard Minimum Rules for the Treatment of Prisoners and the UN Bangkok rules both require information about children to be recorded when someone goes to prison, including ages, location and care arrangements, but very few countries actually do this systematically. Most statistics that we have about the numbers of children who experience their parents' imprisonment are based on estimates or formulas. So keeping children invisible really fails to recognise the opportunities that exist for support and prevention.¹¹

BOX 5.1: The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): Rule 7

No person shall be received in a prison without a valid commitment order.

The following information shall be entered in the prisoner file management system upon admission of every prisoner:

- (a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender;
- (b) The reasons for his or her commitment and the responsible authority, in addition to the date, time and place of arrest;
- (c) The day and hour of his or her admission and release as well as of any transfer;
- (d) Any visible injuries and complaints about prior ill-treatment;
- (e) An inventory of his or her personal property;
- (f) The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status;
- (g) Emergency contact details and information on the prisoner's next of kin.

Source: United Nations Office on Drugs and Crime, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (A/RES/70/175), 2015, <https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf> accessed 7 July 2022.

⁹ Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 36; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 7; Public Health Association Australia, *Submission 21*, p. 2.

¹⁰ Professor Nancy Loucks, *Transcript of evidence*, p. 2.

¹¹ *Ibid.*

The Committee heard of an instance of good data collection and sharing in New South Wales. Alison Churchill, Chief Executive Officer of the Community Restorative Centre, told the Committee that relevant data in New South Wales has been collected and published in the past. However, even though data is still collected, recently it has not been collated or made readily available. Ms Churchill explained:

Probably 10 years ago the then Women's Advisory Council actually really advocated hard for specific—almost like census data—really clear demographic data to be collated and provided, and it was. But it has actually fallen away over the last few years, and that was discussed at our last WAC meeting, saying, 'We want that data back', because they collect it. Corrections services, when women are coming in or when men are coming in, ask how many children have been in their care. They gather the information or they ask the question, but they do not collate a lot of it. So, is it there? Yes. Is it readily available? No. Can it be? It can be, because it has been before.¹²

FINDING 23: Data regarding children affected by parental incarceration has been effectively collected and shared before in New South Wales.

5.2.1 Impact for Aboriginal Victorians

Adjunct Professor Aunty Muriel Bamblett AO, Chief Executive Officer at the Victorian Aboriginal Child Care Agency, told the Committee that data is lacking about Aboriginal Victorians impacted by incarceration:

We know that this affects the children and families that VACCA [Victorian Aboriginal Child Care Agency] serve, but I cannot tell you exactly how many children and families that is, because it is not a question that is required through child protection, through our justice system or through our family services intake system.¹³

The Victorian Aboriginal Legal Service, in its submission, explained that a lack of data prevents the organisation from understanding how many Aboriginal children enter the child protection system as a result of parental incarceration. It also prevents them from understanding the impact of the changes to Victoria's bail laws on the number of Aboriginal children entering the child protection system:

Data on the number of children who come into the child protection system as a result of their parents being incarcerated is not being made publicly available by the government, making it impossible to assess the scope of this issue and undermining transparency about the extent to which children are being adversely affected by the criminal legal system's treatment of their parents. In particular, the lack of data makes it difficult to identify what VALS [Victorian Aboriginal Legal Service] believes is a major factor in worsening this problem – the changes to bail laws, which have led to increased incarceration and extended remand periods, especially for Aboriginal women.¹⁴

¹² Alison Churchill, Chief Executive Officer, Community Restorative Centre (New South Wales), public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 44.

¹³ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 20.

¹⁴ Victorian Aboriginal Legal Service, *Submission 40*, p. 20.

The Victorian Aboriginal Legal Service added that the separation of families as a result of contact with the child protection system was a significant issue in Aboriginal communities, due to the ongoing impact of the Stolen Generations.¹⁵

Stakeholders advocated for more data on Aboriginal children affected by parental incarceration to understand the extent of the issue, measure the effectiveness of current services and inform new strategies.¹⁶ The need for more data specific to Aboriginal communities is recognised by the Committee as an important mechanism to improve care for impacted children.

FINDING 24: A lack of adequate data about children affected by parental incarceration for Aboriginal communities compounds difficulties tackling issues faced by Aboriginal Victorians, such as overrepresentation in prisons and the child protection system.

The Committee is aware of the importance of self-determination for effective services for Aboriginal Victorians¹⁷ and of the key role that data sovereignty can play in self-determination.¹⁸ The Victorian Aboriginal Legal Service, in its submission, recommended ensuring data concerning Aboriginal Victorians is accessible by Aboriginal people and Aboriginal Community Controlled Organisations. Further that ‘decisions regarding the evaluation and dissemination of such data’ are made ‘in a manner consistent with Indigenous Data Sovereignty (IDS) and Indigenous Data Governance (IDG).’¹⁹

Importantly, VACCA suggested in their submission that there could be ‘greater investment in developing an Aboriginal evidence base to improve understandings and effective responses to the needs of children of imprisoned parents.’²⁰ Data sovereignty would be facilitated by resourcing Aboriginal Community Controlled Organisations to collect data themselves.

FINDING 25: Self-determination is an important part of providing effective support services to Aboriginal Victorians. Upholding Indigenous Data Sovereignty and Indigenous Data Governance principles can contribute to self-determination in data collection and use regarding children affected by parental incarceration.

¹⁵ Ibid.

¹⁶ VACCA, *Submission 29*, p. 2.

¹⁷ Professor Thalia Anthony, Professor of Law, Faculty of Law, University of Technology Sydney, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 15.

¹⁸ Change the Record, *Submission 26*, p. 8; *ibid.*, p. 3.

¹⁹ Victorian Aboriginal Legal Service, *Submission 40*, p. 6.

²⁰ VACCA, *Submission 29*, p. 4.

5.3 Existing government data collection practices

Data on children and families of people impacted by the criminal justice system is not collected by the Victorian government. For example, Victoria does not have a database tracking the children or families of people in prison. This lack of information is recognised in academic and policy literature as a problem across Australia.

VACRO, *Submission 17*, p. 6 (with source).

There is a lack of available data about the children of parents affected by parental incarceration because there are no Government policies that require the collection of data in a systemic way. The Victorian Council of Social Service's submission highlighted this lack of procedure across justice and family service systems:

Currently, there is limited official data on the nature, frequency and impact on children affected by incarceration and the parenting or care status of individuals involved with the justice system when arrested, sentenced, entering or leaving prison. There are currently no formal requirements for police, courts and corrections to enquire and record the parenting status or the status of any affected children, while child and family services do not, as a matter of course, enquire about parental justice involvement. While service providers and academics have sought to fill this information gap through research, systems-wide data is needed to develop effective services, support and policy.²¹

The Commission for Children and Young People noted that there is no single government agency with responsibility for this task:

Currently, only limited data is collected about this group of children and young people. No government agency in Victoria is responsible for regularly monitoring or reporting on this cohort. Reported government data is not specific to Victoria.²²

The lack of a single government body with to coordinate services for children affected by parental incarceration is discussed in Chapter 4.

FINDING 26: Limited data is collected about the children of parents affected by parental incarceration in Victoria. There is a lack of formal requirements for government agencies to collect such data and it is not collected in a systemic way.

5.3.1 Corrections Victoria data collection

Corrections Victoria Commissioner Larissa Strong told the Committee that all people entering custody in Victoria—including those on remand—undergo a 'reception assessment interview' which includes questions relevant to parental status (see Figure 5.1). This information is entered into the E*Justice application, an IT system

²¹ VCOSS, *Submission 28*, p. 8.

²² Commission for Children and Young People, *Submission 33*, p. 5.

used by Corrections Victoria and other government agencies to manage and share information about people who are incarcerated and those that have had contact with the criminal justice system.²³

Commissioner Strong told the Committee that this data is purely self-reported by people entering prison and is not subject to further verification.²⁴ However, Commissioner Strong noted that corrections officers would follow up any concerns expressed by people coming into prison about their children by contacting the relevant authority, depending on the circumstances of the child.²⁵

Figure 5.1 Corrections Victoria reception assessment interview questions relevant to parental status

Children Details:	
Do you have a current intervention order against you?	Y
Have you any current intervention orders against another person?	N
Do you have any children? Y	What ages are they? 7 and 3
Do you have legal custody? N	
Were you the primary care giver of the children prior to coming into custody?	N
In whose care are the children now? their mum	
(If female) Are you pregnant? N	
If yes, record expected due date:	

Source: Larissa Strong, Commissioner, Corrections Victoria, *Family Engagement and Parenting*, supplementary evidence received 9 May 2022, p. 5.

Corrections Victoria also collects data ahead of people leaving custody. Commissioner Strong told the Committee:

For remand and short sentences it is about four to six weeks on, and for sentenced people it is in the last 12 months of their sentence or before, depending on if they are doing a program intervention. That is really about your reintegration needs, and there is a family domain, which goes into quite a bit of detail ... if you have dependent children under the age of 16, who do those children live with at the moment? So that actually goes into a bit more of the domain to support reintegration planning as part of the processes that we set up.²⁶

Figure 5.2 shows questions asked by Corrections Victoria ahead of release.

23 Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 55; Victorian Auditor-General's Office, *Implementation of the Criminal Justice Enhancement Program (CJEP)*, Victorian Government, Melbourne, 2008, p. 78; Larissa Strong, Acting Commissioner, Corrections Victoria, *E*Justice Risks and Recommended Action*, 2020, <https://files.corrections.vic.gov.au/2021-06/2_61.docx> accessed 3 June 2022.

24 Commissioner Larissa Strong, *Transcript of evidence*, p. 59.

25 Ibid, p. 60.

26 Ibid, p. 55.

Figure 5.2 Corrections Victoria pre-release questions relevant to parental status

8. Children / Family	Score	Follow Up Questions/Guidance Notes
8.1 Collateral Information (where known): Does the prisoner have a known post sentence condition that will prohibit access to their dependent children? NO/ UNKNOWN YES	0	Notes:
8.2 Do you have dependent children under the age of 16? (Note: This may include biological children, step children or any other children whom you are legally responsible for) YES NO	0	Notes (including how many, and details of child/ren/s' names, ages):
8.3 Who do these children live with at the moment?		Notes:
8.4 Will you be living with these children after your release? (Note: includes any time fraction of a shared custody arrangement) YES		Details of where children will be living:
8.5 Are these children currently or have they previously been in DHHS care/child protection? NO YES	3 (Families) 2 (Families)	Notes:
8.6 Do you feel you need further support with your parenting skills? YES NO	3 (Families) 2 (Families) 2 (Families) 1 (Families)	Notes:
8.7 Will you have regular contact with these children after your release? YES NO	1 (Families) 0 (Families)	Notes:
8.8 Is there anyone who can support you with parenting, such as a partner, co-parent, friend or family member? YES NO	1 (Families) 0 (Families) 2 (Families) 1 (Families)	Notes:

Source: Larissa Strong, Commissioner, Corrections Victoria, *Family Engagement and Parenting*, supplementary evidence received 9 May 2022, p. 5.

The Committee heard criticism that corrections officers asking these questions do not have an appropriate understanding of their meaning, leading to inadequate data collection.²⁷ Dr Catherine Flynn, of Monash University, told the Committee:

They [people entering prison] are asked, ‘Do you have children?’, ‘Do you have legal custody?’—and there is a third question. But the people asking the question do not actually understand the question. So the sorts of answers you can get if you are asked if you have legal custody—people might say, ‘Well, I see my child on a weekend. That’s legal custody’ and tick the box. Once a prison officer told me that they asked somebody—it was a father coming to prison—‘Do you have children?’, ‘Yes’, ‘Who’s caring for them?’, and the answer that this officer wrote into the free-text box was ‘Mothers x 3’. I said, ‘I don’t really understand that’, and he said, ‘Well, he had lots of children. There were three different mothers, and the three different mothers were

27 Dr Catherine Flynn, *Transcript of evidence*, p. 29.

looking after those children'. Imagine then trying to access that data to make sense of: where are the children? It is impossible. And so there are years of data—I can guarantee years of data—that is not usable. Nobody can tell you what it means.²⁸

While Corrections Victoria asks questions at the point of entering custody and ahead of release, the evidence provided by a number of stakeholders, particularly non-government organisations, suggests that this information is not collected, collated and shared in a meaningful way that enables effective delivery of services.

Martini Miller-Pānapa, Advisor, at the Office of the Children's Commissioner in New Zealand, cautioned the Committee about data collection and the need to ensure its robustness:

People who are put in prison are seen as prisoners and no longer seen as parents, children, brothers, sisters. There is a loss of context of their situation. Assessments should be made using existing data and should be broader than compiling statistics.²⁹

FINDING 27: Corrections Victoria has processes for collecting data about the parental status of people entering and exiting incarceration. However, criticisms of how the processes are implemented along with the lack of meaningful data making its way to service organisations and academics indicate that this data is not collected or shared adequately.

5.3.2 Other government data collection, including by Child Protection

In addition to Corrections Victoria's inadequate data collection about the parental status of people in prison, the Committee heard that Victoria's child protection system does not systematically record when children have an incarcerated parent.³⁰ Karen Fletcher, Executive Officer of Flat Out Inc., told the Committee that:

these are invisible children—invisible to the system and invisible to the public—because the data is just not collected at the point where their mothers or other primary carers are imprisoned. DFFS—DFFH now, DHHS then—were not recording in their tick boxes that the reason for their being taken into out-of-home care was the incarceration of a primary carer, and they still are not.³¹

The Victorian Council of Social Service, in its submission, noted how this restricts service and support delivery:

This problem is compounded by the absence of mandated data collection on justice-involved families in adjacent systems, such as child and family services.

²⁸ Ibid.

²⁹ Martini Miller-Pānapa, Advisor—Strategy Rights and Advice, Office of the Children's Commissioner, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

³⁰ VACCA, *Submission 29*, pp. 2, 8; Commission for Children and Young People, *Submission 33*, p. 5.

³¹ Karen Fletcher, *Transcript of evidence*, p. 35.

This constrains the capacity of child and family services – and, indeed, the broader social services system – to respond to the specific support needs of children and families with a parent who is justice-involved.³²

The Law and Advocacy Centre for Women’s submission highlighted how the lack of research data around child protection and imprisonment of mothers is emblematic of the experience of mothers in prison:

There is a paucity of research examining the potential vulnerability to adverse outcomes of children in contact with child protection who have mothers in prison. As such, there is little Australian research to inform policy and practice. Compounding matters, there is no data available confirming the number of women in Victorian prisons with children in contact with the child protection system. The absence of research and data is emblematic of the sense of invisibility experienced by many mothers in prison and the impact this lack of visibility has on their children.³³

Much like the justice system, the Committee heard child and family service systems in Victoria are not collecting the data necessary to recognise and respond to children affected by parental incarceration.

FINDING 28: Evidence to the Committee indicates the child protection system is not systemically recording when a child is affected by parental incarceration. This restricts the system’s ability to appropriately support these children.

5.4 Improved data collection can lead to improved services

Visibility of children and young people whose parents are in prison and their supports needs would be significantly improved by targeted data collection. There are critical gaps in data and evidence relating to the experiences and circumstances of children and their parents who are incarcerated

Safe and Equal, *Submission 25*, p. 12.

As discussed in Chapter 3, inadequacies in data collection and sharing have contributed to a situation where the number, location, situation, and needs of children affected by parental incarceration is unknown. This in turn leads to difficulties delivering appropriate services to those children.

³² VCOSS, *Submission 28*, p. 9.

³³ Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 5.

Stakeholders used the term ‘hidden’³⁴ or ‘actively ignored’³⁵ to describe children affected by parental incarceration or justice systems generally. The South Australian Commissioner for Children and Young People’s 2022 report, *Join the Dots*, noted these children are both hidden and vulnerable:

Children with incarcerated parents are a vulnerable and hidden group whose lives and rights are not only affected by their parent’s offending, but also how their community, and service systems respond.³⁶

Stakeholders emphasised better understanding of this cohort would enable better planning, delivery and evaluation of support services.³⁷ Adjunct Professor Aunty Muriel Bamblett AO, Chief Executive Officer of VACCA, raised a series of questions demonstrating the lack of understanding about what services lead to best outcomes for children. She believed that improved data collection could answer these questions:

In child protection we know of the families, but no-one has ever come to us to say, ‘How many children of incarcerated parents do you have?’. We have not asked that of our own data systems. So if we have not asked it, and we are dealing with it every day, how big an issue is it, what counselling and support and what programs and services are needed, and where should the investment be? Should it be in the prisons themselves? Should it be pre- or post-release? Where do you invest? How do you get the best outcome for children?³⁸

Marius Smith, Chief Executive Officer of VACRO, told the Committee that the Victorian Government needs to facilitate data collection so program outcomes can be assessed:

We are really committed to analysing the outcomes of our programs to the greatest extent possible, but there is a point at which we need government to come to the party for us to be able to do it really well. But also we want to see that culture in government—of collecting the data, analysing the data and thinking about what we should do as a result of it.³⁹

FINDING 29: Improved data collection can inform better service delivery by providing insight into the number, location, situation and needs of children affected by parental incarceration. It would also allow for improved program evaluation to ensure supports are delivered effectively and efficiently.

³⁴ Professor Nancy Loucks, *Transcript of evidence*, p. 6; Norm Reed, Executive Officer, Onesimus Foundation, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 39; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 4.

³⁵ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 27.

³⁶ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 4.

³⁷ Dr Catherine Flynn, *Transcript of evidence*, p. 29; VACRO, *Submission 17*, p. 7; Commission for Children and Young People, *Submission 33*, pp. 2, 5.

³⁸ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 24.

³⁹ Marius Smith, Chief Executive Officer, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, pp. 50-1.

5.5 Improving data collection

Accurate data on the number of people in custody who are parents needs to be collected and made publicly available.

Community Restorative Centre, *Submission 20*, p. 8.

It is clear to the Committee that children affected by parental incarceration are a ‘hidden’ group whose risk of harm is increased by being unrecognised and therefore under-supported. To address this, the systems that are intersecting with these children need to better identify them and their needs through systematic data collection.

Recognising the need to collect and share better data, it is appropriate to consider how this should be done, and any possible obstacles. The following sections consider these issues, including:

- who should collect data
- how data should be collected
- privacy concerns
- managing data about Aboriginal Victorians.

5.5.1 Who should collect data and how should it be collected?

The Committee heard from the submission from Smart Justice for Women that ‘systems level data’ is needed to inform appropriate interventions:

At present, the official data gathered in relation to the parenting or carer status of individuals when arrested, sentenced, or entering and exiting prison is limited. While there is some academic research on what happens to children when a primary carer becomes justice involved or imprisoned, the frequency, nature and impact on children affected by parental incarceration is not well understood at a systems level. It is crucial that systems level data is collected to ensure that appropriate interventions for children’s care and family wellbeing are designed and implemented in the most targeted and effective way.⁴⁰

Further, the submission contends that government agencies such as Victoria Police, Corrections Victoria, and the courts need to seek this information when parents come into contact with the criminal justice system.⁴¹

While the Committee agrees that such systemic data collection needs the involvement of government agencies, it also heard concerns about those agencies gathering data directly due to a lack of trust from those in contact with the criminal justice system.⁴²

⁴⁰ Smart Justice for Women, *Submission 37*, p. 6.

⁴¹ Ibid.

⁴² Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 2–3; Change the Record, *Submission 26*, pp. 3, 16; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 4.

This aligns with evidence to the Committee in a previous inquiry concerning how a lack of trust can impinge on the ability of people to access various services linked to the criminal justice system.⁴³

Professor Nancy Loucks, Chief Executive Officer of Families Outside and Chair of the International Coalition for Children with Incarcerated Parents, told the Committee of the risk of government bodies attempting to gather information without trust:

So where families are stigmatised or targeted they have good reason to fear exposure and to want to protect their right to privacy. A previous bad experience with state authorities has a bearing on their willingness to share information, and that unfortunately in itself can place children at very serious risk. A colleague at Children of Prisoners Europe shared their experience of a mother who was sent to prison for pre-trial detention, leaving her two-year-old daughter behind. She had had a very bad experience with state intervention when she was growing up, so she left a message for a neighbour to look after the child and did not tell anyone else the child was there. Unfortunately the neighbour did not receive the message and the child died of dehydration. So not only do questions about children need to be asked routinely and systematically but also the people who are being asked need to have confidence in what is being asked and why.⁴⁴

Dr Catherine Flynn, of Monash University, told the Committee she believes this lack of trust can be overcome through appropriate questioning:

And there is a lot of argument that people will not answer honestly at arrest or sentencing or being brought into prison. I am just a bit of a believer that if we say words like, 'We want to support vulnerable children and families and we want no child to be left behind', and all of those nice statements, then we actually need to be actively looking for these children and these families to offer support. I think it will be really interesting.⁴⁵

Dr Flynn advocated for the justice and corrections system to be the lead data collectors for children affected by parental incarceration.⁴⁶

Safe and Equal, in its submission, argued there is a need for information to be sought at various points within the criminal justice and child protection systems:

In order to develop a nuanced understanding of this cohort of children and young people, it is important that key touch points in the system actively seek information relating to the children of parents who are in the prison system, including police, courts, Corrections and Child Protection.⁴⁷

Other stakeholders took a different view, arguing for an independent or non-government body to lead data collection. South East Monash Legal Service, in its submission, suggested an independent state committee 'be tasked with monitoring and

⁴³ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, pp. 197, 343, 57.

⁴⁴ Professor Nancy Loucks, *Transcript of evidence*, p. 2.

⁴⁵ Dr Catherine Flynn, *Transcript of evidence*, p. 29.

⁴⁶ Ibid.

⁴⁷ Safe and Equal, *Submission 25*, p. 12.

capturing data into children of affected by parental incarceration parents and providing reports and recommendations on how to best support these children' as part of a broader research and consultation process.⁴⁸

At the Committee's stakeholder workshop, VACRO advocated for a data system led by the Department of Families, Fairness and Housing that would administer data about the children of parents affected by parental incarceration. That data would be collected by non-government organisations contracted to provide services and passed to the Department.⁴⁹

In its submission, SHINE for Kids advocated for an annual national survey on the parenthood status of people in prison, and indicated that SHINE for Kids itself could be involved should government funding be provided.⁵⁰

The Committee's view is that for meaningful data collection to occur, government agencies across the criminal justice system such as Corrections Victoria, as well as the Department of Families, Fairness and Housing should be involved. Non-government service providers may also play a role in the collection of data. There should be improved policies, processes and training around gathering parental and child status information at defined points across these systems.

FINDING 30: To inform effective responses, system-level data about children affected by parental incarceration needs to be collected by the Victorian Government. This requires the involvement of agencies across the criminal justice system—including Corrections Victoria and Victoria Police—as well as the Department of Families, Fairness and Housing. Non-government service providers may also play a role in the collection of data.

However, issues around lack of trust and reluctance to provide information should not be ignored. Consideration should be given to the way in which organisations that may be more trusted by incarcerated parents can be involved, with the aim of ensuring the best possible data and therefore the best possible support for children of incarcerated parents. This could take different forms, whether using the trust and expertise of non-government organisations to improve data collection processes, an annual parenthood survey separate to regular data collection processes, or some other approach. The Government should consider and consult on all the approaches outlined by stakeholders to this Inquiry.

The Committee makes recommendations on this issue in Section 5.5.3.

FINDING 31: While Government involvement in data collection is necessary to ensure comprehensive data collection, there is a risk that a lack of trust in Government and the justice and corrections systems in particular will weaken data collection and therefore services to children affected by parental incarceration.

⁴⁸ South East Monash Legal Service, *Submission 13*, p. 16.

⁴⁹ See Appendix D.

⁵⁰ April Long, *Transcript of evidence*, p. 16; SHINE for Kids, *Submission 19*, p. 38.

5.5.2 Privacy concerns and data sharing

The Committee heard of privacy concerns around processes that collect and share data regarding children affected by parental incarceration.⁵¹ This included including existing challenges with sharing information about children⁵² and accessing information about incarcerated people.⁵³

For example, Professor Susan Dennison, Director, Transforming Corrections to Transform Lives at Griffith University, described her experience in Queensland regarding the reluctance of frontline service organisations to share data due to privacy concerns:

Privacy legislation I think is probably one of the main points that virtually every organisation talked to us about. There are exceptions within privacy legislation that allow you to share information when it is in the best needs of children, but I think that most of these organisations are quite fearful of whether or not they are stepping over the line of that legislation—whether this truly is an exception or not. I think that the staff who are the frontline service providers probably are not empowered enough to make those decisions. So either it is a review of the privacy legislation to ensure that there is greater flexibility there or it is more training being provided for those frontline workers to really understand when and how they can actually share information in order to facilitate case planning, because we need that whole wraparound support for children but it is just not happening at the moment.⁵⁴

The Committee wrote to Victorian Information Commissioner, Sven Bluemmel, to gain greater insight on the legislative provisions in Victoria relating to:

- inter-departmental data sharing
- linking data between children and family members
- examples of multi-agency data sharing in Victoria.⁵⁵

The Commissioner provided helpful information around legislative provisions and policies that support and impede data-sharing, including the requirement for organisations subject to the *Privacy and Data Protection Act 2014* (Vic) to adhere to the 10 Information Privacy Principles set out in the Act. The collection and use of data linking family members may include the collection of sensitive information in some circumstances. Information Privacy Principle 10 sets out guidelines on consent to gather such information and the information handling requirements in such cases.⁵⁶

⁵¹ Professor Nancy Loucks, *Transcript of evidence*, p. 2.; Dr Megan Bell, Professor Leonie Segal and Professor David B Preen, *Submission 41*, p. 4.

⁵² Professor Susan Dennison, *Transcript of evidence*, pp. 29, 31–33.

⁵³ Leigh Garrett, *Transcript of evidence*, pp. 3–4.

⁵⁴ Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, pp. 31–32.

⁵⁵ Sven Bluemmel, Information Commissioner, Office of the Victorian Information Commissioner, correspondence, 28 April 2022.

⁵⁶ Office of the Victorian Information Commissioner, *IPP Guidelines, IPP 10 – Sensitive Information*, <<https://ovic.vic.gov.au/book/ipp-10-sensitive-information>> accessed 4 July 2022.

The Commissioner also provided examples of functional data-sharing arrangements in Victoria, including the:

- Family Violence Information Sharing Scheme
- Child Information Sharing Scheme
- Risk Assessment and Management Panel Program Information Usage Arrangement.⁵⁷

The Committee encourages the Government to consult with the Information Commissioner in responding to the Committee's recommendations around data collection and sharing to improve the supports provided to children affected by parental incarceration.

While the Committee notes the importance of privacy regarding the status of children with parents in prison, the Committee is mindful of the need to provide data to non-government organisations and others in the sector to improve services. The Committee believes that de-identified data should be made available to inform policies and services. This is discussed in the Committee's recommendation at the end of Section 5.5.3.

FINDING 32: There may be privacy concerns to be addressed in designing an effective system for data collection aimed at improving support for children affected by parental incarceration. An information sharing scheme for this specific purpose may be an appropriate solution.

RECOMMENDATION 4: That the Government consult with the Office of the Victorian Information Commissioner about privacy concerns when designing a data collection and sharing system to support children affected by parental incarceration. As part of this consultation, the Government should consider implementing a specific purpose information sharing scheme, as has been done previously in Victoria.

5.5.3 The Committee's recommendation

Many of the Inquiry's stakeholders contended that bringing children affected by parental incarceration into view through improved data collection is foundational to any efforts to better support those children. The Committee agrees, noting that without a strong understanding of who these children are and what they need, any efforts to effectively support them are hamstrung.

The Committee's Inquiry has not uncovered all the answers to improving data collection. There is more work to be done by Government, in consultation with community

⁵⁷ Sven Bluemmel, Information Commissioner, Office of the Victorian Information Commissioner, correspondence, 28 April 2022.

organisations and service providers that have expertise and the trust of their clients. The Committee's recommendation is a starting point, identifying important consideration for undertaking this work.

RECOMMENDATION 5: That the Victorian Government implement systemic data collection processes to identify the number of children impacted by parental incarceration, including the children of parents on remand. Along with the number of children, data such as location, family situation, child wellbeing and other data which can inform support services should be collected. In doing this, the Government should consult with relevant Government agencies and existing service providers—including non-government organisations—about how best to collect such data, noting in particular the tension between the need for corrections and justice system involvement to ensure complete data, and the lack of trust in those systems that may hinder data collection. This data should:

- be meaningful and broader than the collection of statistics
- be guided by a clear established minimum data set for courts, Corrections Victoria, Victoria Police, Child Protection services, other Government agencies and non-government service providers that interact with children affected by parental incarceration
- be used to monitor and respond to the wellbeing of children affected by parental incarceration
- be routinely collected, de-identified and made available to service providers and other interested parties to inform policies and services
- be used to understand the interaction between parental incarceration and the presence of Child Protection services
- using an Indigenous Data Sovereignty process, identify a specific Aboriginal-led evidence base to improve understanding and informing effective policy responses.

This data should be used and shared to inform significant research to identify any gaps in support for families and children affected by parental incarceration.

6 Better considering children in justice decisions

6.1 Introduction

The best interests of a child affected by parental incarceration should be more meaningfully and effectively considered at all stages of the justice system. However, the Committee heard evidence throughout this Inquiry that there is a lack of guidelines to ensure this happens, with children's interests remaining largely invisible in decision making in the justice sector.

This Chapter provides an overview of how children's interests are rarely considered across the justice system. Section 6.3 looks at particular points of the justice system, such as arrest and sentencing, and evaluates stakeholder recommendations for incorporating child-centric practices to limit exposure to trauma.

Section 6.4 analyses how effective change can be made to better incorporate the interests of the child into justice system procedure. It provides a list of factors to be considered when implementing change, including culture, training and consultation, and outlines how other jurisdictions have improved their practice.

The Chapter concludes with a discussion on the work needed to be done to address the impact of incarceration on mothers and children during pregnancy, childbirth and young infancy.

6.2 Children's interests are rarely considered across the justice system

The findings of the study suggest there are key crisis points during a parent's journey through the criminal justice system – arrest, remand, sentencing, imprisonment and release – with little formal attention paid to children at each of these stages. A lack of formal protocols and guidelines concerning children, along with limited inter-agency communication, means responsibility for children is poorly placed and coordinated, with children typically not recognised or seen.

Monash University Criminal Justice Research Consortium, *The impact of incarceration on children's care: a strategic framework for good care planning*, report prepared by, Chris Trotter, Catherine Flynn, Bronwyn Naylor, Paul Collier, David Baker, Kay McAuley, Anna Eriksson, Paula Fernandez Arias, Tess Bartlett, Phillipa Evans, Alannah Burgess and Bianca Blanch, 2015, p. 4.

The interests of children affected by parental incarceration are rarely considered throughout the justice process.¹ Particularly at key points, such as arrest, sentencing and incarceration, this could lead to significant trauma for children.²

The submission from Victorian Aboriginal Child Care Agency (VACCA) argued that:

Despite the well-known impacts of parental imprisonment, in VACCA's experience, the best interests of the child are rarely centred in criminal justice decision-making processes, as well as in public policy and practice in this space.³

According to Dr Catherine Flynn, Senior Lecturer and Director of Higher Degree Research, Department of Social Work at Monash University, the interests of children are not required to be considered when parents are in contact with the justice system. She said:

bail and remand and even sentencing—children are not required to be considered there. The idea that hardship needs to be exceptional if we are talking about sentencing—what is exceptional? And losing your parent is not deemed to be exceptional, unfortunately.⁴

The Committee was particularly concerned to hear that such issues are long-standing. Karen Fletcher, Chief Executive Officer of Flat Out Inc., told the Committee that research completed in 2006 identified issues that remain prevalent and unaddressed today. She said reviewing the research:

is really scary because the kinds of things that we were talking about—in terms of kids being left in cars because the police did not know they were there, police not having any responsibility for ensuring that there are some kind of arrangements made for the children, lack of any consideration for children in sentencing and lack of consideration of any kind of children in the bail and remand process—have not only not been addressed, they have got worse, particularly around bail, because there is this assumption that people will be imprisoned, that they must be imprisoned unless they can prove that they are not a risk to the community.⁵

The Committee heard that while research did find some good child-centric practices, they are ad hoc and individualised responses, often 'because of one person' who has taken the initiative to provide support. Dr Flynn said:

There are individual people who are practising well, but it is in no way organised or predictable. The good practices happen in an ad hoc and very individualised way and

1 Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 21; Dr Catherine Flynn, Senior Lecturer, Director, Higher Degrees by Research Program and Deputy Head of Department, Department of Social Work, Monash University, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 24; April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 19; Religious Society of Friends (Quakers), *Submission 5, Attachment 1*, p. 4; VCOSS, *Submission 28*, p. 9; Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 27.

2 Centre for Excellence in Child and Family Welfare, *Submission 30*, pp. 2–3; Indigenous Law and Justice Hub, *Submission 36*, p. 27.

3 VACCA, *Submission 29*, p. 8.

4 Dr Catherine Flynn, *Transcript of evidence*, p. 26.

5 Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 35; See also Section 6.3.4.

often because of those particular staff members' own life experiences. So it might be that if somebody has children themselves, they are more likely to ask about children at arrest or ask about children at other key points or even just notice if there are children's toys around, but without guidelines people who do not have that set of experiences will not ask.⁶

FINDING 33: The interests of children are rarely considered at various points of the justice system. A lack of guidelines means that implementing practices that consider children's interests are left to individuals, rather than being systemically implemented.

6.3 There are points in the justice system when children's interests can be better considered

Stakeholders submitted that there are opportunities to incorporate the consideration of children's interests in the criminal justice system. This includes at key contact points, such as:

- at arrest
- in bail decisions
- through court processes
- at sentencing
- in decisions made during incarceration
- at parole decisions
- post-release.

The following sections canvass mechanisms to consider the impact on children during:

- arrest procedures
- court processes, particularly sentencing decisions
- incarceration, particularly where visitation rights are restricted as a punitive measure.

The Committee has recognised that certain points of the justice system require specific change to better consider child-centric practice. However, to appropriately support children impacted by parental incarceration, the Committee believes the child's interest must be better considered at all times. For this to happen, children must be visible in adult correctional systems. The Committee believes that these children must have opportunities to communicate their preferences and their needs, with their interests considered at all decision points.

⁶ Dr Catherine Flynn, *Transcript of evidence*, p. 24.

Currently, there are obstacles preventing proper consideration of children's best interests when they intersect with the adult justice system. These are outlined in the following sections. The Committee believes that overcoming these obstacles is both achievable and necessary to better support some of Victoria's most vulnerable children.

6.3.1 Arrest

We had our front door kicked off; anyone could have just walked into our house, and we were just little kids. If they can hold children's safety in their practice—yes, okay, our parents stuffed up, they did the wrong thing. Be mad at them. Focus that attention on them. We were just little kids and we got caught up in it, and I am still paying for it now.

Holly Nicholls, public hearing, 9 May 2022, *Transcript of evidence*, p. 20.

Witnessing a parent's arrest can be traumatising for children. Romy Same, Parents and Family Counsellor with VACRO explained to the Committee that she has seen the ongoing impact of this kind of trauma in the children that she works with:

the arrest can be a particularly traumatic event for children who witness the arrest. I have had cases of working with children six months into their dad's incarceration, and here I am sort of thinking, 'We're going to talk about how sad they are that Dad's away or some big event'. And finally they build up enough trust in the counselling room to talk about the night the police came and what they witnessed. It feels upsetting because I can picture their face talking about Dad being pulled away and their little sister crying in her dirty nappy and they would not let Mummy change the nappy and the toy box being thrown up—those sorts of images. Unfortunately it is not that uncommon, so having a service that can understand those needs and support the family during that time in age-appropriate ways is really important.⁷

Therefore, a system that better considers children's interests should ensure that arrest procedures are 'child-aware' and 'child-sensitive.' This helps ensure that the presence of a child is considered, the risk of trauma is reduced, and support can be provided where necessary.

Dr Flynn from Monash University told the Committee that implementing child-sensitive processes, including guidelines and police training, should be a priority:

ensuring when we arrest people that there are child-sensitive processes in place, that police officers are adequately trained and that there are guidelines in place so that if there is a concern—'Yes, we've arrested somebody, we've done it in a child-sensitive

⁷ Romy Same, Parents and Family Counsellor, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, pp. 51-52.

way; we still now have a child to deal with; what are we going to do with that child?—there is something in place to respond to those children ...⁸

Evidence submitted to the Inquiry suggested that child-aware arrest practices are not in place in Victoria. For example, the Commissioner for Children and Young People's submission referred to 2015 research that indicated there was a lack of protocols for establishing and responding to parental status at arrest.⁹

Dr Flynn, who co-authored the 2015 research, said the lack of child-aware guidelines in Victoria was 'astounding':

In Victoria we do not have particular guidelines for police at arrest, unless children are abandoned or parents are incapacitated. Someone might make a judgement that a person being arrested means they are incapacitated, but that requires a professional judgement. In New South Wales at least police are given guidelines that they need to make all reasonable efforts to locate a carer, and there are really specific, stepped out guidelines to ensure that the child has food and water. Do they need medical attention? We do not have any of that in Victoria. It does seem astounding.¹⁰

Other stakeholders similarly criticised the lack of a Victoria Police protocol for dealing with children of arrestees.¹¹ For example, the Indigenous Law Justice Hub (ILJH) said that attendance and arrest policies 'do not embed child-rights approaches, and do not support police practice which minimise adverse impacts on children'.¹² ILJH submitted:

The Victoria Police Manual on 'Bail and remand' states that the attendance process requires police to ask a question about whether the accused have responsibility for children. However this is not elaborated on. The Victoria Police Manuals on 'Crime attendance and investigation', 'Arrests and warrants to arrest' and 'Protecting children' are silent on what police protocols are when attending a crime scene where a child may be in attendance.

This signifies insufficient attention to the rights of the child in these circumstances. For example, when an accused is arrested or detained, it is unclear what processes, if any, are in place to ensure that the child is not left alone, where and for how long the child can be held, and how a child may be entrusted to the care of a relative/kin. It is insufficient to leave such important matters to individual police discretion.¹³

⁸ Dr Catherine Flynn, *Transcript of evidence*, p. 26; See also VACRO, *Submission 17*, p. 4.

⁹ Commission for Children and Young People, *Submission 33*, p. 13; Monash University Criminal Justice Research Consortium, *The impact of incarceration on children's care: a strategic framework for good care planning*, report prepared by Chris Trotter, Catherine Flynn, Bronwyn Naylor, Paul Collier, David Baker, Kay McCauley, Anna Eriksson, Paula Fernandez Arias, Tess Bartlett, Phillipa Evans, Alannah Burgess, Bianca Blanch, Monash University, online, 2015, pp. 20–21, 35–36.

¹⁰ Dr Catherine Flynn, *Transcript of evidence*, p. 25; See also Miaomiao He and Catherine Flynn, 'Safeguarding children during the arrest of their primary carer mothers: the role of the police', *Probation Journal*, vol. 66, no. 4, 2019, pp. 434–450.

¹¹ April Long, *Transcript of evidence*, p. 19.

¹² Indigenous Law and Justice Hub, *Submission 36*, p. 10.

¹³ *Ibid.*

VACRO, a not-for-profit organisation that supports the reintegration of inmates into society, told the Committee that Victoria Police ‘rarely engage in child-aware practice at the point of arrest.’¹⁴ VACRO elaborated:

Care planning for any dependent children in the immediate aftermath of an arrest is ad hoc, meaning that families are rarely linked to support services that can immediately support them and keep them informed about what happens next.¹⁵

VACRO’s submission said little is known about how children are treated during parental arrests and referred to research that indicated:

- one-third of children were present at their father’s arrests, with half of these arrests involving force, weapons or a ‘large number’ of police
- a tendency for police to not enquire about care arrangements for children of arrestees, where those children are not present at arrest
- an ad-hoc approach to children’s welfare at arrest
- a lack of guidance on dealing with the parental status of arrestees in the Victoria Police manual.¹⁶

Dr Marietta Martinovic and Ms Grace Stringer¹⁷ told the Committee that this lack of sufficiently defined protocols for the children of arrestees can have adverse effects on children. Their submission stated:

In Victoria, the responsibilities police have towards children when arresting a primary caregiver are unclear, with officers typically guided by their own sense of duty of care [rather] than any formal policies. This often means informally arranging someone to care for the child while the parent is arrested or detained, and occasionally just bringing them into the station with their arrested parent. Notably, within the station there is no assigned child-caring space or role, simply the front-desk officers who already have their own tasks to be performing.¹⁸

...

This arrest process has meant that in some instances children have simply returned home to find their parent missing, as parents have feared that Child Protection would become involved and have chosen not to make arresting officers aware of their caring responsibilities. In other cases where officers are not aware of an arrestee’s parental

¹⁴ VACRO, *Submission 17*, p. 6.

¹⁵ Ibid.

¹⁶ Ibid., pp. 9–10 with reference to: Tess Bartlett, Catherine Flynn and Christopher Trotter, ‘“They didn’t even let me say goodbye”: a study of imprisoned primary carer fathers’ care planning for children at the point of arrest in Victoria, Australia’, *Child Care in Practice*, vol. 24, no. 2, 2018, pp. 115–130; Catherine Flynn, Bronwyn Naylor and Paula Andrea Fernandez Arias, ‘Responding to the needs of children of parents arrested in Victoria, Australia. The role of the adult criminal justice system’, *Australian & New Zealand Journal of Criminology*, vol. 49, no. 3, 2016, pp. 351–369.

¹⁷ Dr Marietta Martinovic and Grace Stringer, *Submission 32*—This submission notes it is made on behalf of five think tanks involving students inside and outside of prison, as part of the Inside-Out Prison Exchange Program.

¹⁸ Ibid., p. 26 (with sources).

status, children have been left waiting for school pickups from a parent they do not know has been arrested.¹⁹

Dr Catherine Flynn noted that New South Wales Police have guidelines around care for children of arrested parents,²⁰ and the Committee notes the recently tabled report of the NSW Committee on Children and Young People confirmed the role of NSW police expressed in their guidelines. However, it also made the following comment:

The ACYP [NSW Office of the Advocate for Children and Young People] drew the Committee's attention to the latest available version of the NSW Police Force Handbook, which guides police officers on how to care for a child when a parent has been arrested. The ACYP submitted that these guidelines indicate that the police's role is generally limited to attending to children's 'basic and emotional support needs', and making 'all reasonable attempts' to find alternative care arrangements.²¹

On that basis, and the advice of other stakeholders, the NSW Committee on Children and Young People resolved that at the point police become aware that an arrested person has children this becomes 'an operational trigger for initiating processes to support children of imprisoned parents'.²²

SHINE for Kids' advice to the NSW Committee was that the point of police arrest:

should mark the beginning of '[i]ndividualised support' for children that continues while a parent is on remand, in prison or has been released.

The NSW Committee on Children and Young People recommended that 'the NSW Police Force review its guidelines for arrest protocols to ensure that proper consideration is given to the experience of children at the time of the arrest of a parent'.²³

The Legal and Social Issues Committee is troubled by evidence that suggests that Victoria Police have inadequate procedures, policies and frameworks in place to safeguard the welfare of a child when a parent is arrested. This is regardless of whether a child is a witness to the arrest, and therefore present with immediate welfare needs, or where parental status has been established but the child's location is unclear.

The Committee's primary concern is ensuring the rights and interests of a child are considerations at all stages of the justice system, particularly at points that can cause trauma, risk or harm to the child. This includes arrest, which 'can expose children to significant trauma'.²⁴ There is an immediate need for Victoria Police to develop and implement child-aware, child-sensitive arrest processes.

¹⁹ Ibid., p. 27 (with source).

²⁰ Dr Catherine Flynn, *Transcript of evidence*, p. 25.

²¹ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, p. 19.

²² Ibid.

²³ Ibid., p. 18.

²⁴ Indigenous Law and Justice Hub, *Submission 36*, p. 10.

FINDING 34: The Committee’s evidence indicates that policies and processes around arrest in Victoria are discretionary and do not include adequate consideration of children affected by the arrest of their parent. In this way they are not facilitating ‘child-aware’ or ‘child-sensitive’ arrests, and thus risk causing further harm to children of arrestees.

RECOMMENDATION 6: That Victoria Police, in conjunction with the Victorian Government, as a matter of priority, develop and implement protocols to incorporate child-aware procedures and practice at the point of and in the aftermath of arrest. This should include:

- providing training to Victoria Police officers to ensure child-sensitive arrest procedures
- developing systems to support children in a trauma-informed way during and immediately after arrest
 - updating the Victoria Police Manual to implement mandatory procedures and practices including:
 - identifying whether a child is likely to be present at an arrest
 - training on child-aware procedures to identify signs of a child’s presence
 - enquiring after and responding to the needs of children of arrestees, whether or not they are present at the arrest
 - working with families and arrestees for care planning of their children.

6.3.2 Sentencing and opportunities for support at court

in practice in Victoria, courts are hesitant to consider children’s rights or the hardships that would be experienced by children as a result of the custodial sentences to parents as children are not the ‘core business’ of the adult criminal legal system.

Victorian Aboriginal Legal Service, Submission 40, p. 22.

Stakeholders identified the court process, particularly sentencing, as another opportunity to implement child-centric practices. In order to demonstrate how children’s interests can be better considered, this section will discuss and recommend two possibilities for change:

- introducing a wider ability for courts to consider the impact on children when making sentencing decisions, both through legislative change to lower the bar for including such consideration, and impact statements that can better inform courts of the impact parental incarceration will have on children
- using court appearances as an opportunity to identify children and families affected by possible parental incarceration and provide them with access to support services.

Considering the impact on children in sentencing decisions

The Committee heard that there is limited scope for parental status and the interests of children to be considered when sentencing people to incarceration in Victoria. VACRO's submission noted that:

Courts are not required to consider the effects of a sentence on children and families, even where the individual they are sentencing has primary caring responsibilities for a dependent child.²⁵

Stakeholders expressed particular concern about the need for a defendant to prove 'exceptional' hardship or circumstances for a court to consider the impact of a parent's incarceration on their children in sentencing. The Commissioner for Children and Young People's submission referred to 2015 research that indicated '[s]entencing law and guidelines in both Victoria and New South Wales indicated limited consideration of children of offenders before the court, unless the situation could be shown to be "exceptional"'.²⁶ Professor Thalia Anthony, Professor of Law at the University of Technology Sydney, told the Committee that a defendant would need to prove exceptional hardship to have the impacts on their children considered in sentencing:

What we were told in our research by judicial officers is that unless the defendant can prove exceptional hardship, which is a very high bar, they cannot rely on parenting and the impacts on children in sentencing.²⁷

The *Sentencing Act 1991* (Vic) contains no specific requirement to consider the impact on children or families in sentencing, though judges may do so under a catch-all provision which allows for the court to have regard to 'the presence of any aggravating or mitigating factor concerning the offender or of any other relevant circumstances'.²⁸ The Committee heard from Melinda Walker, a criminal lawyer, who told the Committee that courts are unlikely to consider a child and parent being separated by incarceration to satisfy the test of 'exceptional' circumstances²⁹ and further, that in 25 years, she had been successful in only one such argument.³⁰

Other jurisdictions have different provisions, though the Committee's evidence indicates the practical results are similar. For example, under the Commonwealth Crimes Act the court must consider 'the probable effect that any sentence or order under consideration

²⁵ VACRO, *Submission 17*, p. 6.

²⁶ Commission for Children and Young People, *Submission 33*, p. 13; Monash University Criminal Justice Research Consortium, *The impact of incarceration on children's care: a strategic framework for good care planning*, report prepared by, Chris Trotter, Catherine Flynn, Bronwyn Naylor, Paul Collier, David Baker, Kay McAuley, Anna Eriksson, Paula Fernandez Arias, Tess Bartlett, Phillipa Evans, Alannah Burgess and Bianca Blanch, 2015, pp. 22–23. See also Tamara Walsh and Heather Douglas, 'Sentencing parents: the consideration of dependent children', *Adelaide Law Review*, vol 37, no. 1, 2016, pp. 135–161.

²⁷ Professor Thalia Anthony, Professor of Law, Faculty of Law, University of Technology Sydney, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*; See also Liberty Victoria, *Submission 38*, p. 9.

²⁸ *Sentencing Act 1991* (Vic) s 5 (2)(g); See also Indigenous Law and Justice Hub, *Submission 36*, pp. 13–14.

²⁹ Melinda Walker, Criminal Lawyer, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 49; See also Dr Catherine Flynn, *Transcript of evidence*, p. 26.

³⁰ Melinda Walker, *Transcript of evidence*, p. 50.

would have on any of the person's family or dependants.³¹ However, the Indigenous Law and Justice Hub submission notes that 'courts have read down such provisions to require that the hardship on others must be "exceptional" to be a mitigating factor.'³²

FINDING 35: While there is provision to allow courts to consider the impact on children and family in sentencing a person, in practice there is a high bar to satisfy this test, whereby the circumstances must be considered 'exceptional'. Evidence to the Committee indicates this is rarely proven.

Inquiry stakeholders advocated for legislative change to allow greater consideration of the interests of children in sentencing their parents, specifically regarding the high bar set by the 'exceptional' test. Liberty Victoria's submission argued:

In Liberty Victoria's view, this is an area of the law where courts lack the ability to properly consider the impact a parent's sentence can have on a child. The *Sentencing Act 1991 (Vic)* (Sentencing Act) ought to be amended to expressly allow courts to take into account the impact a sentence will have on an offender's family and the best interests of the child (and without that impact needing to rise to the level of 'exceptional hardship').³³

The Australian Law Reform Commission has also recommended this change. In its 2006 report *Same crime, same time: sentencing of Federal offenders*, the Commission advocated for 'an approach that would encompass consideration of the impact of sentencing on this particular group of persons [an offender's family and dependants] without the need to establish exceptional circumstances.'³⁴

The Indigenous Law and Justice Hub further argued for amendment of the *Sentencing Act 1991* so that 'the distinct cultural rights of Aboriginal and Torres Strait Islander children, are key factors in the sentencing of their parents, and other adults connected to them.'³⁵

As one way of facilitating the consideration of the impacts on children in sentencing, Committee stakeholders suggested making impact statements or other similar reports that describe the effects incarceration would have on children and/or families part of standard procedure for courts.³⁶ Dr Karleen Gribble, in her submission, argued:

³¹ *Crimes Act 1914* (Cth).s 16A(2)(p).

³² Indigenous Law and Justice Hub, *Submission 36*, p. 14. See also Tamara Walsh and Heather Douglas, 'Sentencing parents: the consideration of dependent children', *Adelaide Law Review*, vol. 37, no. 1, 2016, pp. 135–161.

³³ Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 8; Liberty Victoria, *Submission 38*, p. 9; See also Professor Thalia Anthony, *Transcript of evidence*, p. 13.

³⁴ Australian Law Reform Commission, *Same crime, same time: sentencing of Federal offenders*, Commonwealth Government, Sydney, 2006, p. 190.

³⁵ Indigenous Law and Justice Hub, *Submission 36*, p. 13.

³⁶ Dr Karleen Gribble, Adjunct Associate Professor, School of Nursing and Midwifery, Western Sydney University, *Submission 11*, p. 9; Victorian Aboriginal Children & Young People's Alliance, *Submission 14*, p. 2; VACRO, *Submission 17*, p. 4.

It should be routine that reports regarding the impact of incarceration on children are provided by suitably qualified experts to assist in sentencing decisions regarding a primary caregiver of a child.³⁷

The Committee acknowledges that this practice would help to bring the interests of children into greater light during court and sentencing processes.

FINDING 36: Stakeholders called for allowing courts to consider the impact of parental incarceration on children in sentencing without the need to prove it would cause ‘exceptional’ hardship or circumstances. One suggested way to facilitate this is requiring impact statements that describe the effects incarceration would have on a defendant’s children and family as part of routine court procedure.

RECOMMENDATION 7: That the Victorian Government make changes to better consider children’s interests and ongoing welfare when sentencing parents or caregivers. This may include:

- legislating or requiring that courts must consider childcare responsibilities as part of sentencing
- requiring statements describing the impact of sentencing on a person’s children and family to form part of court proceedings
- other mechanisms for ensuring children’s interests are recognised at court.

The Committee also notes the 2022 report of the New South Wales Parliament’s Committee on Children and Young People—*Support for children of imprisoned parents in New South Wales*—has recommended changes to sentencing including:

- greater consideration of parent and primary carer status when courts make decisions regarding custodial sentences
- consideration of alternatives to custodial sentences when a primary carer would be sentenced to less than 12 months in prison
- monitoring of ‘whether alternative options are being used to avoid imprisoning primary care givers’.³⁸

The Government may consider similar approaches in its consideration of this Committee’s report.

³⁷ Dr Karleen Gribble, *Submission 11*, p. 10.

³⁸ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, p. 5.

Providing support services at court

Beyond sentencing decisions, the Committee heard there are opportunities for children and families likely to be affected by parental incarceration to access support services as part of the court process. Dr Catherine Flynn, of Monash University, told the Committee that:

at a point of crisis, of being able to refer people—the importance of providing services at that court time—seems very sensible. And I think for me overall the system needs to bring a much more child-aware, family-focused approach. You know, people go to prison. I am not going to make a comment about the right or wrong of that, but most of those people have families. A lot of them have children, and they are not individuals. We need to think about people as part of that wider system.³⁹

VACRO, in its submission, noted that such services are currently not available:

At court, there are no specialist family services available (apart from family violence services), and information on navigating the court system is difficult for families to find. At this stage, families can lose track of their family members in the system because there is no agency with a mandate to keep families informed throughout the trial process.⁴⁰

VACRO previously operated a pilot program called Family Links at the Geelong Magistrates' Court. As part of the program, a family worker provided 'crisis intervention, brokerage support, community based outreach, and assisted referral to families of defendants.' The program focused on connecting with existing local services to facilitate referrals.⁴¹ Evaluation of the program found it to be 'a means of reducing risk to families and children that is of national and even international significance.'⁴²

The evaluation recommended the Victorian Government consider the program 'as an effective means to strengthen both the criminal justice systems and the family support systems across Victoria.'⁴³ The program has not been funded to continue at Geelong or be expanded across Victoria.⁴⁴

FINDING 37: Court appearances can be an opportunity for children and families at risk of being affected by parental incarceration to access support services. However, such services are limited in Victoria. A positively evaluated pilot program run by VACRO at the Geelong Magistrates' Court has not received funding to continue or be expanded.

³⁹ Dr Catherine Flynn, *Transcript of evidence*, p. 26.

⁴⁰ VACRO, *Submission 17*, p. 6.

⁴¹ Australian Government Australian Institute of Family Studies, *Family Links (Family Support in Criminal Court)*, <<https://aifs.gov.au/cfca/2014/03/11/family-links-family-support-criminal-court>> accessed 20 June 2022. See also Melanie Field-Pimm, Development Manager, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 50.

⁴² Roger Hastrich, *Family Links Geelong Pilot Project Final Evaluation Report*, report for VACRO, Melbourne, 2015, p. 5.

⁴³ *Ibid.*

⁴⁴ Dr Catherine Flynn, *Transcript of evidence*, p. 26.

The Committee believes that the provision of child and family-centric supports at court would provide an opportunity for justice-affected families to engage with key support services as early as possible. The Government should consider expanding programs such as Family Links across Victoria to better provide appropriate and timely support.

RECOMMENDATION 8: That the Victorian Government provide better access to support for children and families that may be affected by parental incarceration as part of court appearances. Where possible these supports can be delivered through linking with existing community services. In implementing this the Government should be informed by the former Family Links program at the Geelong Magistrates' Court.

6.3.3 Restricting visitation with children as a punitive measure

Family visits are frequently used as an incentive to buy compliance from prisoners, and the restriction or withdrawal of visits used as a form of punishment for non-compliance. Family visits should be encouraged and not used as a form of coercion and control. More should be done to ensure that children are not prevented from visiting their parent in custody because of any disciplinary action taken against the parent.

Community Restorative Centre, *Submission 20*, p. 12.

During the Inquiry, the Committee also heard that children were often affected by punitive measures directed at their parents. This included the restriction of face-to-face visitation (see Chapter 7 for discussion around box visits).

South East Monash Legal Service Inc. stated in its submission:

When a person misbehaves, has a dirty urine test or a mental health episode in prison, they are punished with restricted visiting rights. Again, as is in the parenting in prison scenarios where children are used as a reward and are unfairly punished, restricted visitation rights unfairly punish children along with punishing their parents. Children are left not knowing what they did wrong and why a longed-for visit has been cancelled. It is now more imperative than ever to consider reforms in parental contact and the rates of imprisonments.⁴⁵

Dr Marietta Martinovic and Grace Stringer criticised this practice, noting it punishes the children as well as the incarcerated parent:

In-person/contact visits are currently classified as a privilege of well-behaved incarcerated people rather than a right of their families. This means weekly visits can be cancelled at the discretion of a Corrections Officer. For incarcerated parents, this means not being able to see or touch their child/children even once a week. Revoking these visits, which is intended to punish the behaviour of the imprisoned parents, is in fact

⁴⁵ South East Monash Legal Service, *Submission 13*, p. 24; See also Community Restorative Centre, *Submission 20*, p. 12.

punishing their children (as well). Given the impacts on children of incarcerated parents that are due, in large part, to children's separation from their parents, this removal of even minimal contact and engagement is unacceptable and unjust.⁴⁶

The Committee heard similar criticism of mother and children programs, with children 'being used as a reward and instead of punishing the mother they are also punishing the child.'⁴⁷

The Committee heard evidence that restricting parent and child contact may miss an opportunity to both support children affected by parental incarceration and contribute to good prison order. SHINE for Kids, in its submission, referred the Committee to research on this issue that indicates encouraging parent and child contact does not necessarily compromise security, in fact it can improve prison order:

Though many of these policies and practices are in place to ensure the correctional facility is safe and secure, the existing body of evidence suggests that policies that encourage parent-child contact offer benefits that do not compromise a facility's safety or security. For instance, several studies conclude that policies that provide incarcerated people opportunities to communicate and interact with their families, through visits and other methods, improve their well-being and adjustment to the correctional environment and lower misconduct and violence in the facility. Increased communication and interaction with family members also lower recidivism rates for incarcerated people after release.⁴⁸

FINDING 38: Prisons have a historical cultural focus on punishment and security. This can be a barrier to embedding programs that are aimed at child wellbeing, despite evidence that such programs can contribute to a better prison environment. Restricting visits with children is a particular example of decisions being made in Victorian prisons based on punishment rather than child wellbeing.

The Committee would like to see a greater focus on the wellbeing of the children of incarcerated people in decisions that impact on them, such as visitation. Punishment of prisoners should focus on alternative approaches.

RECOMMENDATION 9: That the Victorian Government enact policies that provide for greater consideration of the interests of incarcerated people's children in Victorian prisons. This should include, but not be limited to, avoiding the practice of restricting visits with children as a punitive measure.

⁴⁶ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 20. This submission notes it is made on behalf of five think tanks involving students inside and outside of prison, as part of the Inside-Out Prison Exchange Program.

⁴⁷ South East Monash Legal Service, *Submission 13*, p. 23.

⁴⁸ SHINE for Kids, *Submission 19*, p. 40 (with source). See also Bryce Peterson, et al, *Model practices for parents in prisons and jails: reducing barriers for families while maximizing safety and security*, report for Bureau of Justice Assistance (BJA) and the National Institute of Corrections (NIC), Washington, DC, 2019.

6.3.4 Inadequate consideration of children's interests is a problem across the breadth of the justice system

In addition to the arrest, sentencing, and visitation procedures discussed, evidence to the Committee indicated that inadequate consideration of children's interests is a problem throughout the breadth of the justice system. The Committee is recommending change to address this (see Section 6.4). In order to inform the Government's response, the Committee notes evidence it received that indicated children's interests are not adequately considered across the justice system:

- the presumption against bail and the impact this has on separating children and parents (for more see Section 3.3.1)
- the Bail Act not requiring consideration of a person's childcare responsibilities, the inadequate weight given to childcare responsibilities in police bail decisions, and the need for training regarding Aboriginal and Torres Strait Islander cultures⁴⁹
- recommendation for an 'overhaul' of the parole system to reduce the amount of time children and parents are separated⁵⁰
- appropriate housing post-release is important for those who were incarcerated and their families, including for gaining custody, but accessing housing is difficult, better supports are needed, and a lack of data makes evaluation of supports challenging⁵¹
- regulatory timelines around custody and out-of-home care are obstacles to reunification for incarcerated parents post-release, and a lack of data restricts understanding on this issue.⁵²

6.4 Making effective change to better consider children's interests

As discussed throughout this Chapter, stakeholders emphasised the need for mechanisms to assess and consider the impact of justice procedures on affected children.⁵³ This Section outlines:

- the need for initiatives which protect the interests of children impacted by their parent's interactions with the justice system

⁴⁹ Indigenous Law and Justice Hub, *Submission 36*, pp. 11, 13.

⁵⁰ Victorian Aboriginal Legal Service, *Submission 40*, p. 28.

⁵¹ Marius Smith, Chief Executive Officer, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 55; Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 2, 5–6; VACRO, *Submission 17*, p. 7; Community Restorative Centre, *Submission 20*, p. 10; Jesuit Social Services, *Submission 35*, pp. 3–4; Marius Smith, *Transcript of evidence*, p. 55.

⁵² Dr Tatiana Corrales, Research Fellow, Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, *Submission 16*, pp. 5–6; Safe and Equal, *Submission 25*, p. 12; Change the Record, *Submission 26*, p. 8; VCOSS, *Submission 28*, pp. 13–14; Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 3; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 6; Smart Justice for Women, *Submission 37*, p. 7; RMIT Centre for Innovative Justice, *Submission 39*, pp. 14–15.

⁵³ Leigh Garrett, *Transcript of evidence*, p. 7; Religious Society of Friends (Quakers), *Submission 5, Attachment 1*, p. 6; Indigenous Law and Justice Hub, *Submission 36*, p. 9; Victorian Aboriginal Legal Service, *Submission 40*, p. 22.

- obstacles preventing appropriate recognition of children’s interests in the justice system.

Professor Nancy Loucks, Chief Executive Officer of Families Outside and the Chair of the International Coalition for Children with Incarcerated Parents, told the Committee about the need to recognise families at all points through the justice system to adequately support children before their parent is incarcerated:

I suppose the bottom line is recognising the families in every possible element and at every possible stage—ideally at the early stages—so that any kind of planning for the impact can be recognised and addressed before someone ends up in prison.⁵⁴

Melanie Field-Pimm, Development Manager at VACRO, spoke about the organisation’s vision of a system with:

- family-aware arrest protocols
- information about caring responsibilities embedding into sentencing practices
- a family-inclusive approach during incarceration.

Our vision calls for families to be considered at the point of arrest, with police using family-aware arrest protocols, identifying caring responsibilities and providing justice system information and broader referrals than just child protection, to be identified at the time of trial and provided with local linkage services; during incarceration, a family-inclusive approach that includes family-centred case work, family connection programs, family therapy and recognising fathers. This will improve family reunification, with families involved in release planning and able to continue reintegration from a family-centred framework. None of this can occur unless families are visible at the systems level. So in addition to the [Department of Families, Fairness and Housing] taking responsibility for this cohort, we are calling for integrated data collection across systems.

Melanie Field-Pimm, Development Manager, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 49.

VACRO also argued that families and children must be recognised as a ‘valid client group’ of the criminal justice system for appropriate decisions to be made and supports provided.⁵⁵

The South Australian Commissioner for Children and Young People referred to adult justice systems as ‘child-blind’ and advocated for a move to ‘child-friendly’ justice, noting that this has not yet been implemented in the jurisdiction:

move away from ‘child-blind justice’ (where the impacts of decisions on a child are “neither foreseen, acknowledged or remedied by the system”) towards ‘child-friendly justice’ (whereby decisions at every stage of a system are centred on child rights in and

⁵⁴ Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 8.

⁵⁵ Melanie Field-Pimm, *Transcript of evidence*, p. 48.

of themselves rather than as an afterthought, or based on the “personal circumstances” of the offender). These developments at a theoretical level have not consistently translated into practice at a systemic level, with limited examples of practical positive outcomes for children with an incarcerated parent.⁵⁶

The Commissioner noted that such change is possible through ‘small changes at each part of the system so that awareness of the needs of children and child-friendly policies and practices are embedded into all relevant systems and services’.⁵⁷

Multiple stakeholders pushed for the Government to move towards a child’s rights-based approach as set out in various international laws and conventions⁵⁸ (see Chapter 4). The *African Charter on the Rights and Welfare of the Child* was referenced as an example of a ‘framework for understanding the rights of the child as related to incarceration and sentencing.’⁵⁹ The Charter includes a provision that non-custodial sentences should be first considered when sentencing expectant mothers and mothers of infants and young children. In its submission to the Inquiry, the Indigenous Law and Justice Hub argued that the rights-based framework expressly considers mechanisms to mitigate the impact of maternal incarceration on children, and noted the capacity to expand this to all caregivers:

This prioritises alternatives to imprisonment with the overarching aim of reformation so that mothers can be reunited with their families and communities. Such a provision could be expanded in the domestic context to apply to all caregivers.⁶⁰

In a submission to the Inquiry, Dr Karleen Gribble, Adjunct Associate Professor at the School of Nursing and Midwifery, Western Sydney University, noted the benefits that rights-based approaches can have for both the children immediately impacted and society as a whole:

The infants and young children of incarcerated women are a vulnerable group and their needs, vulnerabilities and rights should be appropriate[ly] considered by governments and government agencies. Every effort should be made to ensure that children are not made secondary victims of their mother’s crime. This is not just for themselves but for society as a whole for how these children are treated will impact their future ability to be contributing members of society.⁶¹

The Committee believes that changes which make children more visible in the justice system can lead to decisions that better consider their interest. Further, the rights-based approaches discussed here can also allow for all aspects of the justice system to improve consideration of the interests of children when their parents are at risk of incarceration.

⁵⁶ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 4 (with source).

⁵⁷ Ibid, p. 54.

⁵⁸ South East Monash Legal Service, *Submission 13*, pp. 26–27; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 18; Commission for Children and Young People, *Submission 33*, p. 3; Victorian Aboriginal Legal Service, *Submission 40*, p. 27.

⁵⁹ Indigenous Law and Justice Hub, *Submission 36*, p. 14.

⁶⁰ Ibid.

⁶¹ Dr Karleen Gribble, *Submission 11*, p. 17.

FINDING 39: Systemic changes are required to ensure decisions across the justice system better consider the interests of children of parents in contact with that system. Moves towards ‘child-friendly’ rather than ‘child-blind’ justice can be a positive step towards this goal. Rights-based approaches, such as the *African Charter on the Rights and Welfare of the Child*, can help ensure that children’s rights are embedded across all stages of the justice system.

The Committee also heard that appropriate supports for children and families are required from the point of arrest through to post-release.⁶² Stakeholders reiterated the need for supports to be available ‘at each significant point’ to complement systemic changes.⁶³ The Victorian Aboriginal Child Care Agency’s submission argued:

What this demonstrates firstly is the need for supports in place to support children from the time of their parent’s arrest through to and after their parent’s release. These should be aimed at minimizing the impacts that parental imprisonment has on the child and to support the child’s ongoing connection to their imprisoned parent and broader familial network.⁶⁴

The South Australian Commissioner for Children and Young People, in her 2022 report *Join the Dots: Considering the impact of parental incarceration on children and young people*, identified arrest as a trigger point for identifying and supporting children throughout and beyond incarceration.⁶⁵

The Committee recognises there are instances where justice decisions will necessarily impact children and further that in some cases incarceration may be the appropriate response. In these and all situations where children may be affected by their parent’s interaction with the justice system, the Committee agrees that better supports should be available. For an overview of these points in the justice system, see Table 1.1 in Chapter 1.

FINDING 40: Systemic changes are required to ensure that children are visible and considered throughout their parent’s interactions with the justice system. These changes must be complemented by the provision of appropriate and timely supports that respond to and mitigate the impact of parental contact with the justice system.

The Committee acknowledges implementing these systemic changes and supports will likely require cultural change in the justice system. Stakeholders told the Committee that the adult justice system does not, as a matter of course, consider the impacts of its decisions on the children affected by them. In order to best ensure effective systemic change, a broad review of the justice system is required to understand where children’s

⁶² VACCA, *Submission 29*, p. 6.

⁶³ Romy Same, *Transcript of evidence*, p. 51.

⁶⁴ VACCA, *Submission 29*, p. 6.

⁶⁵ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 54.

needs intersect with the adult justice system. From there, policies and practices should be developed and implemented to better consider and support children.

The Committee has recommended child-friendly and child-centric changes to:

- arrest procedures (Recommendation 6)
- sentencing (Recommendation 7)
- court supports (Recommendation 8)
- using restricted visitation as a punitive measure (Recommendation 9).

However, the Committee recognises that further changes are required to ensure all points of the justice system appropriately consider possible impacts on children. As such, the Victorian Government should undertake a review process to recognise and improve the intersection of children's interests with the justice system.

RECOMMENDATION 10: That the Victorian Government, in consultation with lived experience experts, conduct a review of the criminal justice system to identify various points at which the interests of children intersect. These intersections should be assessed to identify opportunities to reduce harm to affected children, and inform new policies, practices and legislation to better consider the interests of affected children. This includes decisions made by:

- members of Victoria Police
- bail justices and other bail decision makers
- courts
- corrections officers
- other relevant professionals.

6.4.1 Important considerations in making effective change

The Committee heard that there are obstacles to ensuring changes to policy and procedure are implemented in practice. There are also lessons to be learned from other jurisdictions that are performing better in this area.

In this Section, the Committee outlines:

- Stakeholders' experiences with resistance to cultural change in the justice system
- the benefit of training and education for professionals working in the justice system
- the importance of consultation with those with lived experience, and in particular hearing children's voices
- positive approaches from other jurisdictions supporting children affected by parental incarceration.

Cultural resistance to change within existing systems

Our experience is that the fundamental driving force in the criminal legal system is the punishment of individual offenders. That is the *raison d'être* of the system, and that is the culture of the system, the policies of the system and the legal framework of the system.

Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, 31 March 2022, *Transcript of evidence*, p. 36.

Throughout the Inquiry, stakeholders told the Committee that systems which interact with children affected by parental incarceration, including the justice system and Child Protection, can exhibit cultures that are resistant to changes that seek to better incorporate child wellbeing. Karen Fletcher, Executive Officer of Flat Out Inc., told the Committee that the organisation's experiences were with a justice system resistant to incorporating the rights of children affected by parental incarceration:

Trying to shoehorn into that the rights and welfare of another group of people, who are the children, is virtually impossible, and there is this resistance simply because of the structures and the systems. It is not just cultural, it is not just systems, but it is the whole historical precedent and culture of that and what people see as their jobs. Law enforcement is the job of police officers and security of the prison is the job of the prison officers, yet there is so much resistance to allowing, say, community organisations and mainstream organisations—even the Department of Education and the Department of Health, these sorts of mainstream organisations that could actually have a focus on child welfare and wellbeing—to have any intersections with that. So you have this focus on punishment, on security, as the primary issue within that system.⁶⁶

This resistance to change is demonstrated in the fact that many of the issues outlined in this report have been known for a long time. Dr Catherine Flynn told the Committee that research over the course of 20 years has consistently found similar problems:

there have been fairly consistent findings no matter what the focus of the study was, as well as in the research that has been conducted outside of that, so fairly consistent findings over a long period of time—and I do not mean consistent in a good way—and, importantly, no real change over the past two decades.⁶⁷

The Committee heard that a 'cultural mindset' in Child Protection sees parents who have been incarcerated as threats to their children's wellbeing, and that this can be an obstacle to maintaining family connections.⁶⁸ Further, while Corrections Victoria have acknowledged the benefits of people in prison maintaining positive family connections, there is more to be done to recognise the benefits for children and families and to ensure systems are working together to realise these benefits.⁶⁹

⁶⁶ Karen Fletcher, *Transcript of evidence*, p. 36.

⁶⁷ Dr Catherine Flynn, *Transcript of evidence*, p. 23; See also Karen Fletcher, *Transcript of evidence*, p. 36.

⁶⁸ VACRO, *Submission 17*, p. 17; See also Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 6.

⁶⁹ SHINE for Kids, *Submission 19*, p. 3.

The Committee further heard that ‘mainstream’ services lack the ‘understanding or experience’ of working with people who have been incarcerated and may discriminate against them.⁷⁰

The Committee recognises that addressing existing cultures within institutions can be challenging. In implementing the Committee’s recommendations this challenge will need to be recognised and addressed.

FINDING 41: Existing cultures in departments and agencies that interact with children affected by parental incarceration may be hindering efforts to implement changes that better serve the interests of affected children. These cultural barriers will need to be addressed in order to make effective change that helps these children.

Training people within existing systems can help implement effective change

At present, all facets of the criminal justice system are ill equipped to support the needs of children and their imprisoned parent. It is crucial for all staff working across the criminal justice service system to be highly qualified and trained in trauma-informed care to understand how to appropriately and safely respond to the complex needs of those they support.

VACCA, Submission 29, p. 13.

In order to develop the capacity to respond to children affected by parental incarceration, stakeholders told the Committee that education and training is necessary for the people working within and around the justice system. Stakeholders advocated for education initiatives and targeted training for staff working in and adjacent to relevant bodies and agencies, including:

- Victoria Police
- courts (including the judiciary)
- child protection workers
- social workers
- prison officers
- schools
- healthcare providers
- other specialised service providers.⁷¹

⁷⁰ Community Restorative Centre, *Submission 20*, p. 11.

⁷¹ South East Monash Legal Service, *Submission 13*, pp. 5, 16.

The need for specific training was consistent with the evidence heard by the New South Wales Committee on Children and Young People in their Inquiry into support for children of imprisoned parents in New South Wales. It heard of 'several areas where training could be improved for key points of contact that children of imprisoned parents will have with government agencies.'⁷² The report noted that the provision of training for Corrections Officers in particular was 'an opportunity to reduce the trauma that children often experience in correctional environments.'⁷³ This is discussed further in Chapter 7.

The Indigenous Law and Justice Hub also emphasised the importance of appropriate training which enables culturally safe practices for a variety of practitioners, including 'judges, lawyers, police, social workers, medical service providers and other decision makers':

Mandated education on Indigenous content to enable culturally safe practices is woefully lacking across a range of professional settings. This means that professionals are generally not equipped with formal education to support them to identify their own biases and empathise with Aboriginal and Torres Strait Islander people through some insight into their world views and ways of knowing. Such education would support practitioners to better ask the right questions, work safely, and understand the impacts of incarceration on Aboriginal and Torres Strait Islander kids - enabling them to better put this information before the courts.⁷⁴

The Committee believes that training and educating people working in the justice system about the impacts of parental incarceration can support workforces to reduce the harm encountered by these children. To work towards decisions across the criminal justice system that better consider the interests of children, the people making those decisions need to be appropriately trained in considering those interests. Without such training, even well-considered policies and procedures will have limited effect.

FINDING 42: Specific education and training for people interacting with children affected by parental incarceration is needed. This training can support the justice system to better consider the interests of children.

Beyond simply being made aware of the need to consider the interests of children, the Committee heard calls for training on how best to respond and support those children. This may include resources for:

- mental health professionals⁷⁵
- enhanced training around trauma-informed approaches⁷⁶

⁷² Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, p. 46.

⁷³ *Ibid.*, p. 40.

⁷⁴ Indigenous Law and Justice Hub, *Submission 36*, p. 16.

⁷⁵ Name Withheld, *Submission 18*, p. 2.

⁷⁶ VCOSS, *Submission 28*, p. 14.

- guidance on maintaining contact between children and their incarcerated parents⁷⁷
- better identifying and supporting impacted children,⁷⁸ particularly for mainstream services that may not have an understanding of or experience with this cohort.⁷⁹

The Committee believes that the Hidden Sentence training provided by the Onesimus Foundation in Tasmania is a positive example of accessible education aimed at relevant professionals. The training aims to increase ‘the awareness professionals have on the impact parental incarceration has on children, and the role they can play in lessening the harm.’⁸⁰ A similar training model could be adapted to Victoria and rolled out to relevant professionals.

FINDING 43: Specific training to understand and respond to the experiences of children affected by parental incarceration can improve service provision.

RECOMMENDATION 11: That the Victorian Government develop a training module to educate professionals working with children in education, healthcare, and any other relevant sectors about the effects of parental incarceration.

The importance of children’s voices in systems design and implementation

The service system response should be founded on a child-focused, rights-based framework. Specifically, it should promote children and young people’s right to connection with family and should empower them to be heard and participate in decisions that affect their lives.

Commission for Children and Young People, *Submission 33*, p. 2.

To ensure that policies and procedures are suitable, appropriately child-sensitive and trauma informed, it is critical to understand the needs and concerns of children of incarcerated parents. This is important both for designing effective systems and responding to individual cases appropriately.⁸¹

⁷⁷ VACCA, *Submission 29*, p. 10.

⁷⁸ Centre for Excellence in Child and Family Welfare, *Submission 30*, pp. 8–9.

⁷⁹ Community Restorative Centre, *Submission 20*, p. 11.

⁸⁰ Onesimus Foundation, *Training*, (n.d.), <<https://www.onesimus.org.au/copy-of-get-involved>> accessed 15 June 2022. See also Norm Reed, Stacey Milbourne, Teresa Pockett and Julie Bunyard, Children Affected by Parental Offending Steering Group, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, pp. 38–48.

⁸¹ Safe and Equal, *Submission 25*, p. 11; VACCA, *Submission 29*, p. 2; Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 12; Commission for Children and Young People, *Submission 33*, p. 4; VACCA, *Submission 29*, p. 11; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 5; Safe and Equal, *Submission 25*, p. 11; VCOSS, *Submission 28*, p. 10; Commission for Children and Young People, *Submission 33*, p. 2.

The Commission for Children and Young People's submission advocated for the inclusion of children's voices—along with those of their families—in system reform and implementation:

It is critical that decision-makers consult with children, young people and families with lived experience of parental incarceration to ensure their voices are heard, shape reforms and guide implementation. The service system should also be culturally safe, tailored to respond to specific vulnerabilities and complement existing services, like out-of-home care and youth justice.⁸²

Similarly, the Centre for Excellence in Child and Family Welfare highlighted the importance of listening to children's voices. The Centre contended that 'Any response to children affected by parental incarceration needs to be based on what children themselves say they need and want.'⁸³

This was also reiterated by VACCA in its submission, which emphasised that the system 'must create opportunities to hear the voices of children and young people, consider their experiences and understand their lives in order to support professional practice'.⁸⁴

The Committee also heard from lived experience advocates who urged for their experiences to be considered as expertise. One submitter with lived experience of parental incarceration noted that 'considering lived experience is of paramount importance when considering how such supports and services are to be improved':

Such an experience is incredibly unique, and I believe some form of consultation with individuals who know what it's like is the only way forward. I would recommend ... that young people with lived experience should be consulted with for any major decisions to be made.⁸⁵

The importance of listening to the experiences of young people affected by parental incarceration has been clear throughout this Inquiry. Those with lived experience hold valuable insights into the needs of this cohort. Further, they have significant expertise about the wide-ranging impacts posed by parental incarceration and what is needed to support children living through it.

FINDING 44: Children and families affected by parental incarceration have expertise about the impacts and supports required before, during and after incarceration. Any service or policy design impacting children affected by parental incarceration would be best informed by being developed in consultation with this cohort.

RECOMMENDATION 12: That the Victorian Government actively and continuously consult with children and families affected by parental incarceration in designing and implementing appropriate systemic changes and improved supports for this cohort.

⁸² Commission for Children and Young People, *Submission 33*, p. 2.

⁸³ Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 1.

⁸⁴ VACCA, *Submission 29*, p. 2.

⁸⁵ Name withheld, *Submission 2*, p. 2.

Examples of better practice

The Committee's Inquiry has encountered examples of jurisdictions and specific programs which are allowing children's interests to be better incorporated into decisions regarding parental incarceration and associated support services.

Some of these examples are presented here as sources of information that the Victorian Government can look to in learning how to improve the justice system in Victoria.

The Committee also notes the Family Links program operated by VACRO at Geelong Magistrates' Court (see Section 6.3.2 above) and referrals to VACRO through the Victoria Police e-Referral system as examples of programs that the Government could look to for guidance on how to improve Victoria's responses to children affected by parental incarceration.⁸⁶

Other Australian jurisdictions

Leigh Garrett, Chief Executive Officer of OARS Community Transitions in South Australia, told the Committee that South Australian police arrest procedures are sensitive to children and include child protection where appropriate.⁸⁷ The South Australian Commissioner for Children and Young People's 2022 report, *Join the Dots: Considering the impact of parental incarceration on children and young people*, praises changes in South Australia that instruct police to 'take all steps to ensure that children are not present during their parent's arrest.'⁸⁸ However, the Commissioner identified a need for better policy, procedures and training for police, and highlighted the model policy published in the United States (discussed below).⁸⁹

In New South Wales arrest guidelines include some consideration of children—see Section 6.3.1.

International jurisdictions

Multiple stakeholders⁹⁰ told the Committee of a guide for safeguarding children of arrested parents published in the United States.⁹¹ The guide is complemented by a model policy, online training, and other resources.⁹²

⁸⁶ Melanie Field-Pimm, *Transcript of evidence*, p. 51. (though Melanie Field-Pimm, Development Manager at VACRO, noted when this was used in the past VACRO did not have the funding to respond to all referrals).

⁸⁷ Leigh Garrett, *Transcript of evidence*, p. 4.

⁸⁸ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 48.

⁸⁹ *Ibid.*, pp. 48–49.

⁹⁰ Dr Catherine Flynn, *Transcript of evidence*, pp. 25–26; VACRO, *Submission 17*, p. 11.

⁹¹ International Association of Chiefs of Police and Bureau of Justice Assistance, U.S. Department of Justice, *Implementing a parental arrest policy to safeguard children: a guide for police executive*, report prepared by Brendan Cox, Francis Healy and Racheal Kilshaw, Alexandria, Virginia, 2016.

⁹² *Ibid.*, p. 11.

In California, legislation requires guidelines be produced to ‘address issues related to child safety when a caretaker parent or guardian is arrested.’⁹³ VACRO’s submission noted in some local jurisdictions in California ‘protocols include the placement of a social worker in every police station, other co-location of social work services with law enforcement, changes to police arrest and reporting procedures, and joint training of both child welfare and law enforcement officers.’⁹⁴ VACRO’s submission also referred to a Swedish requirement for police to ‘inquire after—and follow up on—the long-term care arrangements of the children of people they arrest.’⁹⁵

New Zealand

As discussed in Chapter 3, New Zealand has a number of innovative programs aimed at reducing its incarceration rate as well as promoting a holistic and family centric approach to rehabilitation. The Hon Kelvin Davis, Minister for Children and Minister of Corrections told the Committee:

Families don’t see the changes that are being made in prison and are not involved in the process of rehabilitation. My aspiration is to include the family in that process so they can participate in rehabilitation for inter-generational healing.⁹⁶

This includes the Whānau (family) Navigators pilot program, which involves representatives from community services working in the community with families of offenders. In addition, the New Zealand Government is working on improving access to stable accommodation and job opportunities for offenders—measures that will assist their families.⁹⁷

The Minister also expressed his view to the Committee that providing support for children within the education system, at primary schools and high schools, is important because this is where children can be reached. He told the Committee that New Zealand is working on improving relationships with schools as a priority:

We are really bad at sharing information with schools, for privacy reasons. The school system should be part of conversations about the welfare of children, not the Department of Education. We are working hard to improve those relationships.⁹⁸

⁹³ California Commission on Peace Officer Standards and Training, *POST guidelines for child safety when a custodial parent or guardian is arrested*, West Sacramento, California, 2008, p. vii.

⁹⁴ VACRO, *Submission 17*, pp. 10–11—references: G. Puddefoot and L. Foster, *Keeping children safe when their parents are arrested: local approaches that work*, California Research Bureau, California, 2007.

⁹⁵ VACRO, *Submission 17*, p. 10.

⁹⁶ Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti and Associate Minister of Education, New Zealand Parliament, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁹⁷ FYI, *Official Information Request on High Impact Innovation Programme*, 2018, <<https://fyi.org.nz/request/8613/response/29835/attach/3/MIN2280%20Ti%20Lamusse.pdf>> accessed 5 July 2022; Ara Poutama Aotearoa, Department of Corrections, *Our Strategic Direction*, (n.d.), <https://www.corrections.govt.nz/resources/strategic_reports/statements-of-intent/statement_of_intent_2018-2022/our_strategic_direction> accessed 5 July 2022.

⁹⁸ Honourable Kelvin Davis, Minister for Children, Minister of Corrections, Minister for Māori Crown Relations: Te Arawhiti and Associate Minister of Education, New Zealand Parliament, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

FINDING 45: Evidence to the Committee indicated other jurisdictions in Australia and overseas have developed policies, protocols, programs, and training which can help ensure the interests of children are considered at various points of the justice system. While the Committee has not had the opportunity to fully assess these programs, it presents them to the Government to inform policy and practice development in Victoria.

RECOMMENDATION 13: That the Victorian Government consider the lessons from the policies and programs throughout Australia and overseas presented in this report in considering the interests of children who may be affected by parental incarceration.

6.5 Pregnancy, childbirth and young infancy services for incarcerated people

Pregnancy and childbirth while incarcerated, and mothers of infants being incarcerated with or without their child, form part of the experience of Victoria's corrections system for some parents.

This Section discusses criticism the Committee heard of antenatal, postnatal, and neonatal care in Victorian prisons (Section 6.5.1). The Committee also discusses mothers and young children living together in prison through the Living with Mum Program (Section 6.5.2) and calls from stakeholders to avoid incarcerating pregnant women or parents of young children (Section 6.5.3).

A note on the lack of data

The Committee notes evidence from Dr Tatiana Corrales, Research Fellow with the School of Public Health and Preventative Medicine at Monash University, that, as with this Inquiry generally, basic data on the prevalence of these issues is missing:

In Australia, there is a complete absence of systematic data on the prevalence of pregnancy and childbirth in prison, or pregnancy-related outcomes, including live births, stillbirths, and miscarriages. Similarly, there is no systematic data on neonatal outcomes, including birthweight, APGAR scores, utilisation of special care nurseries or intensive care nurseries.⁹⁹

Dr Corrales' submission noted the lack of data on the use of mother and baby units in prisons and explained how the lack of data makes it unclear whether antenatal and postnatal needs of women and postnatal mental health are being addressed.¹⁰⁰

As with other aspects of this Inquiry, the Committee believes data collection, collation, and sharing needs to be improved so that supports for children affected

⁹⁹ Dr Tatiana Corrales, *Submission 16*, p. 2; See also p. 4.

¹⁰⁰ *Ibid.*, pp. 6, 7–8.

by parental incarceration can be improved. Further discussion and the Committee's recommendations on this issue are in Chapter 5).

6.5.1 Pregnancy and childbirth

In a submission, Dr Tatiana Corrales outlined cross-jurisdictional research that indicated negative outcomes of being incarcerated during pregnancy and childbirth, including:

- anxiety of pregnancy in addition to 'stressors inherent to the prison environment'
- pre-occupation with the health of themselves and their unborn baby
- separation from baby immediately after birth, and anticipated grief associated with this.¹⁰¹

Dr Corrales notes the increased risk of 'poor maternal and neonatal outcomes' associated with these concerns, 'including through an increased risk of maternal and infant mortality, gestational complications, traumatic births, premature births, low birth weight babies, and low APGAR scores at birth' and an increased risk of mental ill-health in such pregnant women and mothers.¹⁰²

Karen Fletcher, CEO of Flat Out Inc., criticised the use of a 'fully owned subsidiary of an American correctional health facility' to deliver health services in Victorian prisons, and discussed negative outcomes for antenatal and postnatal healthcare:

And the level of health care for pregnant women—reproductive health care in general, antenatal care, postnatal care, for the women who are in there, and it is not uncommon for pregnant women to be incarcerated—is just not at the standard that would be available in the community. Even though that is what the human rights standards say, it is not the case, and to get it there we need to have the same department delivering those health services in the prison as we have in the community, for the sake of the kids who live there and the women who live there and the babies who are born.¹⁰³

The Committee recognises the risk of negative impacts posed by being incarcerated while pregnant. The Committee is particularly concerned about evidence that antenatal, postnatal and neonatal care in Victorian prisons is of a lesser standard than in the general community, and the part that contracting such care to a 'correctional health facility' may play in that lesser service.

FINDING 46: Being pregnant while incarcerated risks various poor maternal and neonatal outcomes. Antenatal, postnatal and neonatal care in Victorian prisons is contracted to a 'correctional health facility', which may negatively impact the level of care provided compared to that provided in the community.

¹⁰¹ Ibid., p. 2.

¹⁰² Ibid.

¹⁰³ Karen Fletcher, *Transcript of evidence*, p. 36.

RECOMMENDATION 14: That the Victorian Government ensure the level of antenatal, postnatal, and neonatal care provided in Victorian prisons is on the same level as that provided in the community. This may require moving away from contracted health services to services provided by Victorian Government departments.

Use of restraints

The use of restraints on pregnant women, women in labour and women recovering from childbirth must stop. Not only does it represent a danger to the pregnant woman and the unborn child, particularly during childbirth, it is fundamentally degrading. It also reflects the prioritisation of ‘security’ and ‘good order’ over women’s health and wellbeing, which can have a deleterious (and sometimes fatal) impact on the unborn child.

Dr Tatiana Corrales, Research Fellow, Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, *Submission 16*, p. 3.

Dr Corrales highlighted concerns about the use of restraints on incarcerated pregnant women attending medical appointments in Victoria.¹⁰⁴ Dr Corrales referred to an Ombudsman’s report from 2017 describing such a practice at Dame Phyllis Frost Centre, in contravention of relevant guidelines:

Multiple sources, including staff members and a civil society organisation, advised that, in practice, women – including pregnant women – are routinely handcuffed when attending external medical visits, unless the doctor requests the cuffs be removed.

The inspection also heard anecdotally of pregnant women who were traumatised by being handcuffed or shackled when attending medical appointments, or who had refused to attend appointments after learning they would be restrained.¹⁰⁵

The General Manager at the time told the Ombudsman better educating staff to comply with relevant guidelines which state that ‘mothers travelling with their children or mothers who are six or more months pregnant, should not be handcuffed or shackled, unless exceptional circumstances apply’ would resolve this problem. The then Department of Justice and Regulation accepted a recommendation to ensure officers comply with the guidelines.¹⁰⁶

Dr Corrales’s submission suggested that use of restraints may be continuing, though did not provide specific examples in Victoria.¹⁰⁷

FINDING 47: Restraints have been used on pregnant women against relevant guidelines in Victorian prisons. The Committee heard concerns this practice may still be occurring.

¹⁰⁴ Dr Tatiana Corrales, *Submission 16*, pp. 3–4.

¹⁰⁵ Victorian Ombudsman, *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*, Melbourne, 2017, p. 51.

¹⁰⁶ *Ibid.*, pp. 51, 102.

¹⁰⁷ Dr Tatiana Corrales, *Submission 16*, pp. 3–4.

The Committee is concerned that relevant guidelines regarding the use of restraints have not been followed as recently as 2017. The Committee recognises the harm such practices can have and encourages the Government to ensure all relevant guidelines aimed at minimising such harm are being adhered to.

RECOMMENDATION 15: That the Victorian Government ensure all relevant guidelines regarding the use of restraints on pregnant women are being complied with in Victorian prisons.

6.5.2 Children living with their mother while incarcerated

One way to respond to the risk of harm caused by the separation of a child—particularly an infant—and their incarcerated mother is through programs that allow young children to live with their mother in prison. Dr Karleen Gribble, Adjunct Associate Professor in the School of Nursing and Midwifery at Western Sydney University, outlined some of the positive and negative aspects of such programs in her submission:

Maternal separation can be avoided through prison mother and child programs:

- The most important factor for infant wellbeing is to be able to maintain proximity to their mother and for her to be responsive to them
- The institutional environment of prisons can work against mothers providing responsive caregiving in mother and child programs
- Programs that provide individual support for mothering in prison can have a profound positive impact on maternal caregiving and infant mental health.¹⁰⁸

Dr Gribble's submission argued that it is the presence of a mother who is 'emotionally available' and responsive that is most important to an infant, regardless of other factors such as the prison environment.¹⁰⁹ However, the prison environment can impact on a mother's ability to provide responsive care, and therefore programs that allow children to live with their incarcerated mother need to mitigate this.¹¹⁰ Dr Gribble's submission stated:

Simply housing babies and young children with their mothers in prison, is not enough. Rather, what is needed in mother and child units is specific support to mitigate against the institutional environment and to support mothers in their caregiving. Such support can have a truly impressive positive impact on maternal caregiving capacity and infant mental health.¹¹¹

¹⁰⁸ Dr Karleen Gribble, *Submission 11*, p. 8.

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*, pp. 8–9.

¹¹¹ *Ibid.*, p. 9.

FINDING 48: Programs that allow young children to live with their mothers in prison can mitigate the risk of harm posed by separation. However, it is important that these programs are designed to reduce the potential harms to children posed by the institutional prison environment.

Victoria's Living with Mum Program

In Victoria the Living with Mum Program allows for 'young children to live with their mother in custody and provides pregnant prisoners with ante- and postnatal health services.'¹¹² The Program 'aims to assist women prisoners (where practicable) who are primary caregivers of young children to maintain their bond and attachment while incarcerated.'¹¹³

Children live in cottage-style accommodation with their mothers and can access playgroups or kinder inside and outside the prison, as well as visit family outside of the prison over weekends.¹¹⁴

Corrections Victoria Commissioner Larissa Strong told the Committee the program operates at Dame Phyllis Frost Centre and Tarrengower Prison and that eligibility is primarily assessed by considering the best interests of the child:

It really does aim to diminish the impact of a mother's imprisonment on her dependent children and to support family ties. It is available for women in custody who are pregnant and who are the primary caregivers of their young children. They can apply for the Living with Mum, which means that their under-school-age child may reside with them either at Dame Phyllis Frost Centre or at Tarrengower Prison. The assessment and the primary principle is what is in the best interests of the child.¹¹⁵

Dr Karleen Gribble, in her submission, praised some aspects of the Living with Mum Program, including:

- transparency of policies regarding the Program
- placing the Program within a human rights framework
- enabling priority access for breastfeeding children
- including mothers with health or drug treatment needs or history.¹¹⁶

The Committee also heard some criticisms of the Living with Mum Program and similar programs across Australia. Dr Tatiana Corrales' submission referred to research that indicated '[I]n all States and Territories, Aboriginal women may also be excluded due

¹¹² Prisons & Parole Corrections, *Pregnancy and childcare*, 2022, <<https://www.corrections.vic.gov.au/prisons/going-to-prison/pregnancy-and-childcare>> accessed 21 June 2022.

¹¹³ Ibid.

¹¹⁴ Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 55–56, 64–65.

¹¹⁵ Ibid., pp. 55–56.

¹¹⁶ Dr Karleen Gribble, *Submission 11*, p. 11.

to structural and systemic factors.¹¹⁷ The Victorian Aboriginal Child Care Agency's experience supported this indication:

Unfortunately, it is very challenging to support mums to access the [Living with Mum Program], and [Victorian Aboriginal Child Care Agency] has not seen many cases in which clients have been successful in being accepted into it. Often being blocked by child protection due to being considered too high risk for the child. It is very concerning that [Victorian Aboriginal Child Care Agency] has heard reports of pregnant women having their newborns removed immediately after birth, or not seeing their very young infants for months at a time and having no idea when they will see them again.¹¹⁸

FINDING 49: There is some indication that it is difficult for Aboriginal mothers to access programs that allow young children to live with their mothers in prison across Australia, including the Living with Mum Program in Victoria.

Dr Gribble raised further criticisms of the Living with Mum Program, including that:

- there should be more detail on the qualifications required to be a Living with Mum Support Worker
- there is a lack of maternal health, child development or parenting experts on the Operational Steering Committee (which assesses applications for the Program)
- a child's 'development' needs should be considered in assessing entry to the Program, along with 'physical, intellectual and emotional' needs
- there is a lack of provision for mothers to go with their child to hospital
- there is a lack of access to breastfeeding support and lack of detail about support for expressing breastmilk
- there is a need for intensive parenting support to be integrated with the Program
- the *SIDS & KIDS SAFE Sleeping Policy and Agreement*, which forms part of the Living with Mum Program:
 - puts infant at risk by prohibiting co-sleeping
 - does not explicitly support breastfeeding.¹¹⁹

Dr Corrales also criticised the procedures around searching children as part of the Program.¹²⁰

The Committee notes these criticisms, but also recognises that its current Inquiry has not gathered sufficient evidence to properly analyse them. It is, however, important

¹¹⁷ Jane Walker, Eileen Baldry and Elizabeth Sullivan, 'Residential programmes for mothers and children in prison: key themes and concepts', *Criminology & Criminal Justice*, vol. 21, no. 1, 2019, pp. 21–36; See also Dr Tatiana Corrales, *Submission 16*, p. 6.

¹¹⁸ VACCA, *Submission 29*, p. 14.

¹¹⁹ Dr Karleen Gribble, *Submission 11*, pp. 11–15.

¹²⁰ Dr Tatiana Corrales, *Submission 16*, pp. 6–7.

that the Government acknowledge and respond to these criticisms and take action as appropriate.

FINDING 50: The Living with Mum Program allows some young children to stay with their mothers at Dame Phyllis Frost Centre and Tarrengower Prison. The Committee heard praise, but also criticisms of the Program and suggestions for improvement. The Committee's current Inquiry has not analysed these criticisms in depth.

RECOMMENDATION 16: That the Victorian Government consider the criticisms and suggested improvements to the Living with Mum Program brought to this Inquiry, and take appropriate action, and further consider implementing regular, independent reviews of the Living with Mum Program to ensure the safety and wellbeing of both the children and mothers involved.

6.5.3 Calls to avoid incarcerating pregnant women or parents of infants

Considering the growing body of evidence of the harmful effects of incarceration during pregnancy or shortly after giving birth – for both the mother and the infant – it is important to fundamentally reconsider the role of prisons in the punishment, containment, and control of predominantly non-violent women. Further, it is difficult to comprehend how a system that has been specifically designed to contain and punish could be responsive to the unique physical, emotional, hormonal, and psychological needs that accompany pregnancy, childbirth, and early motherhood.

Dr Tatiana Corrales, Research Fellow, Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, *Submission 16*, p. 3.

Noting the challenges and risk of negative impacts of incarceration while pregnant or mother to an infant, the Committee heard calls for pregnant women or parents of infants to not be incarcerated or be incarcerated only as a last resort.¹²¹ The South East Monash Legal Service Inc., in its submission, recommended that:

For non-violent crimes ... imprisonment of parents who are the primary carers and pregnant women should only be used as an option of last resort.¹²²

SHINE for Kids' submission included avoiding incarceration on remand as part of this call:

Pregnant women and parents who are primary caregivers of young children or of people with disabilities should not be remanded unless they are charged with a serious offence such as murder, manslaughter or rape.¹²³

¹²¹ Ibid., pp. 2, 9.

¹²² South East Monash Legal Service, *Submission 13*, p. 6; See also p. 26.

¹²³ SHINE for Kids, *Submission 19*, p. 5.

As did Dr Tatiana Corrales, who further included women serving short sentences for non-violent crimes:

Incarceration as a tool of punishment, deterrence, or even rehabilitation needs to be seriously reconsidered where women are pregnant or have recently given birth ... most women in prison are on remand or serving short sentences for nonviolent crimes. Placing these women in prison – risking their health and the health of their unborn or newborn baby – runs counter to basic human rights and principles of justice.¹²⁴

Dr Gribble's submission outlined some of the impacts incarceration of a mother can have on infants and young children:

Where infants and young children are separated from their mothers:

- Maternal separation due to incarceration is severely traumatic for infants and young children and usually results in the termination of breastfeeding
- Maternal caregiving capacity is undermined by maternal separation
- The long-term health, development and wellbeing of infants and young children is negatively impacted by maternal separation due to incarceration.¹²⁵

The Committee notes the risk of negative impacts raised by the incarceration of pregnant women and parents of young children. Stakeholders have told the Committee that these groups and their children, in particular, are at risk of harm due to separation caused by incarceration. While the Committee has recommended change to reduce incarceration of parents generally in Chapter 3, it is also necessary to recognise that the people discussed here are a group with particular needs, and whose children are at risk of particular harm due to their parent's incarceration.

FINDING 51: Incarcerating pregnant women and parents of young children can have particular harms for the children impacted by that incarceration. Stakeholders have called for avoiding incarcerating pregnant women and parents of infants and young children.

RECOMMENDATION 17: That the Victorian Government aim to reduce the risk of harm to children affected by the incarceration of pregnant women and parents of young children by:

- where possible and appropriate, avoiding remand for non-violent offenders who are pregnant women and parents who are primary caregivers of young children
- using custodial sentences for pregnant women or breastfeeding mothers only as a last resort.

¹²⁴ Dr Tatiana Corrales, *Submission 16*, pp. 2, 8.

¹²⁵ Dr Karleen Gribble, *Submission 11*, p. 7.

7

Facilitating and maintaining meaningful family connections

7.1 Family connections

even though that was our story, I still remember going to see Dad and loving it and loving getting that opportunity to see him and make the most of every opportunity ... despite everything we definitely wanted to be there. It did not feel like a chore. We made the most of the time that we did get.

Clarisa Allen, public hearing, Melbourne, 9 May 2022, *Transcript of Evidence*, p. 15.

Throughout the Inquiry, the Committee heard about the importance of regular opportunities for meaningful contact between children and parents that are incarcerated. To make sure that opportunities for contact are protected and readily available, Corrections Victoria must make regular contact visits available and easy to organise. The Committee believes that in-person visits should be supplemented with opportunities for video calls and free phone calls with extended time limits. The Committee would also like to see Corrections Victoria explore opportunities to provide live chat functions across all Victorian prisons.

When parents are separated from their children because they are in prison, the government has a responsibility to uphold the rights of children to be in regular contact with their incarcerated parent. The only exception to this is if it is not in the best interest of the child. These rights are set out in Article 9 of the United Nations Convention on the Rights of the Child, which says that:

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interest.¹

In some cases, it may be decided that the relationship between a parent in prison and a child causes harm to the child. In these cases, visitation and/or contact is not appropriate. However, where there is no harm to the child, facilitating and maintaining meaningful family connections can benefit both the rehabilitation of the person in prison and the family outside.

This Chapter outlines the importance of maintaining family connections and discusses the benefits and limitations of different methods of maintaining contact. It speaks about the experiences of parents in prison trying to maintain contact with their families.

¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

The Chapter goes on to outline the need to build capacity in the support sector to facilitate visits and broader family connections.

7.1.1 The importance of family connections

In Victoria, with the significant and growing proportion of people in prison on remand or for short periods of time, repairing the structure and relationships with families is also more important than ever before, and we are really keen to emphasise that that connection is important for a whole range of reasons. It is important for safe and humane care, it is important for the family not also undergoing the sentence and increasingly the evidence shows it is actually important for reintegration outcomes as well.

Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 54.

Throughout the Inquiry, the Committee heard evidence that facilitating and maintaining positive family connections could provide socioemotional support, help support people in prison develop positive relationships with themselves and others, reduce the risk of reoffending and ease the transition back to the community.² As noted by Melanie Field-Pimm, Parents and Family Coordinator at VACRO:

Maintaining and strengthening family relationships, especially between incarcerated parents and their children and the carers of their children, can therefore have psychological benefits for families and help recidivism.³

Governments need to see children in the context of their family, and the family in the context of community, and support the development of those.⁴

Commissioner Larissa Strong from Corrections Victoria recognised the importance of family connections in aiding families affected by incarceration. Commissioner Strong stated:

One of the things that, I guess, supplements the *Corrections Act* is the absolute acknowledgement of the importance of family connections in promoting rehabilitation, in reducing recidivism and in supporting the reintegration of the individuals released from prison back into the community.⁵

The Commissioner noted that Corrections Victoria was aware of the suite of benefits associated with strong family relationships for both the people in prison and their families. At her appearance before the Committee, Commissioner Strong acknowledged that:

² Romy Same, Parents and Family Counsellor, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 48.

³ Melanie Field-Pimm, Development Manager, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 49.

⁴ Glennis Phillip-Barbara, Assistant Māori Children's Commissioner, Office of the Children's Commissioner, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022.

⁵ Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 54.

strong family relationships have been shown to improve mental health, education and employment outcomes as well as to reduce family violence and that people in prison with social connections, including connections with their children, are also more likely to engage in positive behaviours post release.⁶

For people leaving prison, strong family connections can provide motivation to stop reoffending. Professor Nancy Loucks OBE, Chief Executive Officer at Families Outside and the Chair of the International Coalition for Children with Incarcerated Parents, noted the tangible impact that family connections have on reducing recidivism:

there have been a number of pieces of research done over the last few decades in relation to this, and you will get different figures. The range is up to a six-times reduction in reoffending if positive family contact is maintained.⁷

Professor Loucks told the Committee that the accepted figure in the UK is about a 39% reduction in recidivism. However, she emphasised that the reduction in recidivism should not be a sole motivator for encouraging positive contact between family members and people in prison. This was reiterated by April Long, National Operations Manager at SHINE for Kids, who stated:

quite often we see children of prisoners being looked at through the lens of their parents' offending and how they can reduce recidivism versus their human rights and their needs.⁸

For the children of people in prison, regular and positive contact can ensure that the bond with their parents is not significantly fractured or severed. As noted in Chapter 2, nurturing the parent-child bond can improve a child's social and emotional wellbeing and development and can reduce stress related to the relationship.⁹ There are a number of ways to facilitate regular contact between children and parents in prison, including:

- face-to-face visitation
- videocalls
- phone calls
- written correspondence, such as letters or emails.

A list of family engagement initiatives led by Corrections Victoria is outlined at Table 7.1. The Committee notes that many of these were suspended in 2020 due to COVID-19 health and safety measures and some have not yet been reinstated. Further, these initiatives are not available in all Victorian prisons.

⁶ Ibid.

⁷ Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 7.

⁸ April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 11.

⁹ Dr Alannah Burgess, *Submission 10, Attachment 1*, p. 73; South East Monash Legal Service, *Submission 13*, p. 23.

Table 7.1 Family engagement initiatives led by Corrections Victoria

Initiative		Description
Visits	Family	Visit on the weekends and public holidays, including family, friends, community supports and with children who do not reside in the prison. This program is delivered at all Victorian prisons. On visit days families can gift newspapers, magazines or photographs without prior approval. Approved visitors may also leave authorised property and monies for people in prison ensuring that families are given the opportunity to provide gifts and essential items to their loved ones throughout their prison sentence.
	Residential	A family visit program which extends beyond normal visiting hours and which is not directly supervised and closely mirrors conditions in the community. This program is delivered at Tarrengower Prison.
	Child Access	A three-hour access program which operates each Sunday afternoon at DPFC for mothers and their children.
	DFFH Supervised	Supervised child access visits with DFFH.
	Inter-prison	Inter-prison visits may be applied for by people in prison with a confirmed long standing close personal relationship with another prisoner.
	Christmas Party	A dedicated visit day for children of people in prison to attend for a Christmas Party.
Leave Permits	Family Ties (Primary Caregiver)	The purpose of the Family Ties permit is to allow a prisoner who has been the primary caregiver of a child or children or a sick or elderly relative prior to imprisonment, to maintain family ties. This permit can also be used to allow a prisoner who has a child residing in custody to maintain family ties by accompanying the child outside the prison for medical reasons or in the interests of the socialisation of the child in cases where there is an expectation that the parent would be present.
	Family Ties (Exceptional Circumstances)	Exceptional Circumstances enables an eligible prisoner to visit a member of their family or a person with whom they have had a long-standing relationship where that person has been unable to visit the prisoner for a period of at least 12 months as a result of documented health/incapacitation reasons.
	School Holiday Program	The SHP provides an opportunity for women to have their child or children stay with them for up to 4 days during the School Holidays. The SHP gives people in prison the opportunity to maintain their mother and child relationship whilst in custody. This program is provided at Tarrengower Prison.
	Marriage and Commitment Ceremonies	Prisons have processes in place to enable people in prison to apply for, and if approved, manage a marriage or commitment ceremony.

Initiative	Description
Remote contact	Video visits/Skype calls Eligible people in prison are provided access to video visits/Skype calls to stay connected with family.
Phone	Access to telephones for people in prison to maintain communication links with family, friends and other community supports.
Mail	People in prison are encouraged to maintain written contact with family and friends and relevant professionals by mail.
Inter-prison calls	Inter-prison calls may be applied for by people in prison with a confirmed long standing close personal relationship with another prisoner.
Court ordered welfare calls	Family Engagement Workers provide women access to court ordered welfare calls during business hours.

Note: not all of these initiatives are available in every Victorian prison. Some of these initiatives may have been impacted by COVID-19 health and safety protocols.

Source: compiled by the Legal and Social Issues Committee from Department of Justice and Community Safety, *Family engagement and parenting: programs and services guide*, available at <<https://files.corrections.vic.gov.au/2022-02/Family%20Engagement%20Programs%20and%20Services%20Guide.pdf>> accessed 13 April 2022, pp. 24–25.

This Chapter outlines the methods of communication available and addresses the benefits of strong family communications. This Chapter makes recommendations to support and facilitate positive family connections.

7.1.2 Challenges in maintaining family connections

Families are broken up during prison, that's the reality of it.

Johnny, a father incarcerated at Loddon prison, site visit, 27 April 2022.

Throughout prison sentences, there are many challenges that can impede the relationship between parents and children. As noted in Chapter 6, the point of arrest can be a deeply traumatic and divisive moment for the children of the person being arrested. This can strain the relationship between parents and children. Further, as outlined in Chapter 2, for children in the immediate timeframe after their parent is taken to prison, there can be a lot of confusion, hurt, anger and sadness directed at the parent in prison. As discussed below, the location of a parent who is incarcerated can also be a factor that prohibits relationship development. Rebuilding a positive relationship with the parent in prison can take a lot of hard work, and can be hampered by family opinions, stigma, prison procedures and bureaucracy, and other factors like transportation.

For some children, re-establishing or maintaining contact with a parent may cause distress, trauma, anxiety, or trigger symptoms of post-traumatic stress disorder. For children who cannot engage with their parent in a psychologically safe way, contact may not be an appropriate option despite the wishes of the incarcerated parent.

For carers, they may be conflicted about whether to tell children the truth about their parent's arrest and incarceration. For kids, not knowing why their parent has suddenly disappeared can be a harrowing experience. This can result in internalised blame and

make it difficult for families to re-establish contact because they don't want to reveal that the parent is in jail.

For families who do want to continue the family connections, understanding how to navigate the prison system can be very difficult. Some people may be received into prison and moved to a different location without their family knowing. Given that Corrections Victoria is unable to confirm whether a certain person is at a prison, there are also privacy restrictions impeding information. Often, that provision of information continues to be blocked throughout the sentence, and sometimes into release.

Families must also complete paperwork to get on lists for approved visits and telephone calls (see Sections 7.2 and 7.3.2) which can be difficult to navigate. For foster carers who have taken in children, there may be additional instructions not to disclose contact details of the children, such as addresses and phone numbers. Beyond that, understanding requirements for visiting or getting to the prison can be difficult. Families can also be confronted by Restricted Access status for the person in prison, which prevents them contacting children under 17 unless a rigorous application process is undertaken (see more below).

Throughout the Inquiry, the Committee heard of experiences from people inside and outside prison struggling to initiate and maintain contact. This was especially exacerbated during COVID-19 health and safety protocols, when visitation was suspended and communications were restricted.

At a public hearing in Melbourne, Commissioner Strong noted that Corrections Victoria needed to improve their systems to support family connections:

it is really recognised that we do need to improve. We have been on that journey of trying to improve. It is not just about programs and services; it is about things like the gatehouse and how the gatehouse treats visitors as they come through the system, it is about our policies and processes and how they support visits or how they might support a community permit et cetera. That is certainly what our family engagement process has been trying to do over this time frame, really recognising the importance of family. Some children may well be better off having their parent in custody, but that is the minority of the cases. So from a Corrections Victoria perspective, that is absolutely something that we recognise as really important and that we ... have been trying to lift over the last few years.¹⁰

The Committee strongly supports the need for consistent, whole-of-system support available for families affected by incarceration from the point of arrest. For more on a proposed model, see Chapter 4.

¹⁰ Commissioner Larissa Strong, *Transcript of evidence*, pp. 60–61.

Gender as a factor

A significant body of research has identified differences in experiences for families with a mother incarcerated, or a father incarcerated. For men and women, the pathway into the criminal justice system and incarceration is usually quite different. As noted in the *Committee's Report into the Victorian Criminal Justice System*, most women in prison have experienced forms of family violence or disadvantage, which is not as prevalent in men.¹¹

Further, mothers are more likely to be the primary carer prior to their arrest but are less likely to receive visits or phone calls than a father in prison. Melanie Field-Pimm, from VACRO, spoke to observations that mothers were less likely to have visits arranged by the partner on the outside. Melanie Field-Pimm stated that:

one of our understandings from our practice is that that is also due to gender. For a lot of our clients the kids are still with family and kinship, but it is the dad, and the dad is simply not as good at facilitating and doing it. Dads in the community need help to kind of call this up, whereas for the men the women are out there going, 'Yep, you need to go out and see Dad; I want to see Dad'.¹²

Researchers at Monash University also observed that when fathers are incarcerated, often the children stay with their mother as the primary carer. However, when mothers are incarcerated, the responsibility often falls to grandparents or other family members, rather than fathers.¹³ However it is not straightforward with fathers also experiencing barriers to communication with their children. Some of the fathers that the Committee spoke to reported that often, their ability to see their children was contingent on their ex-partner being agreeable to visitation. One of the men at Ravenhall Correctional Centre, Kaleb, told the Committee that 'If [his ex-partner] can't talk to me, I lose my son.'¹⁴ The dads in the group agreed, with Kaleb and another father, Jesse, noting that 'it's not about the relationship between the mother and the father. It's about my relationship with my kid.'¹⁵

For fathers, there were often other considerations that impacted their ability to make meaningful family connections. As observed by the Parliamentary Budget Office, 'incarcerated fathers have limited access to parental programs in prison compared to incarcerated mothers'.¹⁶ This is discussed further in Chapter 8.

11 Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022.

12 Melanie Field-Pimm, *Transcript of evidence*, p. 56.

13 Monash University Criminal Justice Research Consortium, *The impact of incarceration on children's care: a strategic framework for good care planning*, report prepared by Chris Trotter, Catherine Flynn, Bronwyn Naylor, Paul Collier, David Baker, Kay McCauley, Anna Eriksson, Paula Fernandez Arias, Tess Bartlett, Phillipa Evans, Alannah Burgess, Bianca Blanch, Monash University, online, 2015, p. 32.

14 Kaleb, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

15 Ibid.; Jesse, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

16 Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, Parliament of Victoria, East Melbourne, 2022, p. 6.

The distance between family and a parent in prison

Mum was at Tarrengower. Raymond sometimes didn't wanna spend money on petrol to drive up to the country to see Mum in prison. That make me pretty angry. I wanted to see Mum and this was the only way I had.

Harry, via Dr Catherine Flynn, *Submission 27*, p. 14.

I stayed with my Nan and Pa. That's where I always stay. They made sure I got to see Mum as much as I could, but we could only go once a month because it was a three hour drive to get there.

Chloe, via Dr Catherine Flynn, *Submission 27*, p. 14.

For many families, the distance required to travel to prison significantly impeded their ability to regularly visit their loved ones.

Professor Nancy Loucks OBE told the Committee that having a parent incarcerated far from their children risked a loss of contact due to barriers such as:

- time constraints
- cost of travel
- lack of access to transport.¹⁷

In the first instance, stakeholders encouraged the introduction of provisions to send parents to the nearest appropriate facility. South East Monash Legal recommended 'where appropriate a parent is held in a close correctional centre to the child to facilitate visits.'¹⁸ This was reiterated by the Religious Society of Friends (Quaker) Victoria, who provided that where this was not feasible, 'support [is] provided to children who have to travel long distances to visit their parents.'¹⁹

To ensure that the impact on children and families is appropriately assessed, SHINE for Kids and the Community Restorative Centre in New South Wales recommended that 'governors should be required to produce a Family Impact Assessment prior to transfer that considers the proximity of prisoners to their children'.²⁰

The Committee also heard evidence that where long distance travel is unavoidable, families should be supported to undertake regular visitation—rather than being encouraged to supplement visits with video calls. April Long, National Operations Manager at SHINE for Kids, told the Committee that the state and corrections centres had a level of responsibility to ensure children could still see their parents in person:

A lot of families do have to travel a long distance. You know, I was at a justice conference yesterday where a lot of people were saying, 'Oh, that's great. The kids don't have

¹⁷ Professor Nancy Loucks, *Transcript of evidence*, p. 1.

¹⁸ South East Monash Legal Service, *Submission 13*, p. 5.

¹⁹ Religious Society of Friends (Quakers), *Submission 5, Attachment 1*, p. 11.

²⁰ Community Restorative Centre, *Submission 20*, p 12; SHINE for Kids, *Submission 19*, p. 7.

to travel now. They don't have to come into an unfriendly prison environment'. The responsibility is on the state and those correctional centres to make it not a daunting environment for those children and make sure that we have transport versus relying on video visits.²¹

Supported transport has been provided to some families, but is not currently available to all families affected by significant travel distance. Romy Same, Parent and Family Counsellor at VACRO, told the Committee about the Aboriginal Family Visits program, which facilitates train travel for families visiting from afar:

Since 2003 the Aboriginal family visits program has been available to families of Aboriginal and Torres Strait Islander people imprisoned in all Victorian adult correctional facilities. Many families are impacted by distance and economic circumstances, which can further fray family relationships during imprisonment. Funded by Corrections Victoria, this program provides travel and accommodation assistance to enable families to travel the long distances to see their loved ones to keep that connection alive.²²

The Committee recognises that distance can be a significant obstacle to regular visitation and contact between children and parents. As such, the Committee supports the need to consider how a person's location will impact their family's ability to maintain contact.

FINDING 52: Distance and travel to prison is a significant impediment to regular visitation and contact. Consideration should be given to how a person can be incarcerated at the closest appropriate facility to their children to support regular visitation and meaningful contact.

Restricted Access status

'Nobody's out there to help the people trying to work out why their kids can't see their parent.'

'They don't try to help you with the RA stuff.'

'They're using the same reports from then, now. I'm not the same person as I was when I was 19.'

'In the community, I'm seeing my daughter twice a week. In here, I'm on Restricted Access.'

'I was on parole for 11 months, living with my kids. In here, I can't see them.'

'RA needs to be looked at more broadly.'

Reports from Jye, Justin, Shane and other fathers incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

21 April Long, *Transcript of evidence*, p. 14.

22 Romy Same, *Transcript of evidence*, p. 48.

How it works

During the Inquiry, a number of parents noted ‘Restricted Access’ status as a key impediment stopping families from engaging together in a positive way. A Restricted Access status is a mechanism to ensure that the ‘safety and well-being of children is the paramount consideration’ and has implications for how the affected person can engage with children under the age of 17. The categorisation may be automatically applied on a person’s receipt into prison or identified later throughout the sentence. The status may be reassessed by the General Manager of the prison following an application from the affected person.²³

Restricted Access status is defined in Commissioner’s Requirements 3.2.2, *Visits by children to restricted access prisoners*, which states that this category is designated to a person in prison:

who is charged with, convicted of or has known prior convictions for one or more of the following:

- (a) an offence involving physical or sexual abuse against children, including child pornography offences
- (b) sex offences against an adult, where the offender has had at least two previous convictions for similar offences
- (c) an offence involving physical or sexual assault of a vulnerable victim over 18 years of age, and where there is a reasonable concern that they present a risk to children. A ‘vulnerable victim’ is someone whose vulnerability (e.g. significantly impaired intellectual or physical functioning, elderly etc) was knowingly exploited in order to commit the offence
- (d) current charges or offences (or past offences within the last 5 years) which are brought under the *Family Violence Protection Act 2008* (e.g. breaches of family violence intervention orders), where the orders have been made in respect of children or vulnerable victims.

Restricted Access status means that the affected person is unable to visit with, or be in the presence of, children under the age of 17 without expressly applying for it. The application process generally takes ‘between two and three months (depending on the time it takes to gather the information required to do the assessment)’.²⁴ To apply for a visit with a child as a person with a Restricted Access status, the affected person must:

- submit an application form and a Consent to Release information form
- demonstrate that they are/were a relative or legal guardian of the child

²³ Corrections Victoria Commissioner, *Commissioner’s Requirements: Visits by children to restricted access prisoners*, policy paper, no. 3.2.2, October 2021, p. 3.

²⁴ *Ibid.*, p. 7.

- demonstrate that they had a form of contact that would warrant visitation, or that they were involved in the day-to-day care of the child as a primary care giver or otherwise
- obtain consent for visitation from the child's guardian
- allow the General Manager to contact Child Protection, Department of Families, Fairness and Housing to understand whether the affected person has been found to be a 'person responsible for harm' to any children
- allow the General Manager to check for any active Family Violence Intervention Orders and/or Family Law Orders in place.²⁵

The Department of Families, Fairness and Housing will respond with advice about any Child Protection involvement with the child regarding the affected person, or if there is any other information that indicates that the affected person has presented a risk to other children. This information is based on 'information pertinent to the protection of a child from any of the following forms of abuse:

- (a) physical
- (b) sexual
- (c) emotional
- (d) neglect.²⁶

For completeness, this may also include unsubstantiated allegations of abuse in relation to that child. The information from the Department should also include:

- (a) a recommendation relating to the appropriateness of visits and/or contact between the Restricted Access prisoner and the nominated child/ren
- (b) (if known) any information relating to the child's wishes regarding visits
- (c) (if known) any information relating to the protective capacity of the parent of legal guardian.²⁷

On receiving this information from the Department, the General Manager must provide all the documents to Forensic Intervention Services who will provide a written recommendation back. Depending on available information, the recommendation may include:

- (a) assessed level of risk relating to general sexual or violent recidivism
- (b) behaviours that would indicate risks are increasing and recommended actions if increasing risk is observed
- (c) likely/known victim profile

²⁵ Ibid., pp. 5–6.

²⁶ Ibid., p. 7.

²⁷ Ibid.

- (d) type of visit recommended (none, non-contact, contact with conditions, contact without conditions, other)
- (e) any special conditions recommended (i.e. to mitigate risk or required to allow visit to take place).²⁸

Once the application is submitted, the General Manager must assess the application with consideration of:

- the nature of current and, where relevant, prior offences; and
- the nature and length of relationship with the nominated child; and
- whether consent has been provided by the parent / legal guardian.²⁹

The General Manager can then make a final decision and where visitation between the affected person and the child is allowed, the decision should be recognised across the state.

How it affects children

My 3 year old is suffering immensely. Her father is at Fulham Correctional Centre, he isn't allowed to contact our daughter. [She] thinks her dad has forgotten her and doesn't love her anymore ...

Having no contact is making her emotional and quite aggressive. The challenge of trying to help her is debilitating plus heartbreaking watching her suffer. A child doesn't deserve this.

Name withheld, *Submission 2*, p. 1.

For many parents in prison, Restricted Access status prohibits visitation with their children for at least as long as the application process, and possibly longer. Parents also told the Committee that it is difficult for children of people with the status to understand why they can't see their parents.

Some stakeholders noted that it was an obstacle to a positive relationship between parents and their children and impeded some parents from participating in initiatives to connect with their children. Denise Jepson, President of Friends of Castlemaine Library indicated that Restricted Access categories often made men ineligible for their program:

We have not been allowed to send books to men's children where the man has had an IVO [Family Violence Intervention Order] against him or whatever. They can do the recording I think—well, they could at some point—but that can be put aside until they have to leave prison, so it does not go to the child. Those particular few are not allowed to send anything to their children.³⁰

²⁸ Ibid., p. 8.

²⁹ Ibid., p. 6.

³⁰ Denise Jepson, President, Friends of Castlemaine Library, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 37.

When the Committee spoke to fathers incarcerated at Ravenhall Correctional Centre, the fathers noted that Restricted Access status needed to be 'looked at more broadly' to ensure that it was a logical and appropriate categorisation.³¹ Many of the fathers reported being unable to be visited by their children due to Restricted Access categorisation and were not allowed to have children present during video calls due to the categorisation. Some had lived with their children immediately prior to their arrests and were then unable to contact them while incarcerated.³² Further, some parents noted that their applications for visitation had gone missing after being in the system for significant periods of time, or their approval for visitation had not carried across when they transferred to a different prison. One father told the Committee that he had 'been waiting 17 months ... twice they've lost the paperwork. Then it just sat on a desk for five months.'³³

In some cases, Restricted Access status meant that fathers in prison were unable to visit or have contact with their children in line with court orders or parenting plans. Melinda Walker, Criminal Lawyer, observed the inconsistency with some of her clients:

from my experience and my clients' experience there seems to be a policy that where there is an intervention order in place, the access to the children is severely restricted, notwithstanding that that intervention order may not prohibit any contact between the children at all. Some clients that I have also fall foul of that because there has been in existence an intervention order. We are at pains then to provide to Corrections either the expiry of that intervention order or a variation on that intervention order before they will allow any contact.³⁴

This is despite an acknowledgement stating that application of Restricted Access status 'recognises the importance of prisoners maintaining positive and supportive family and social relationships.'³⁵ The Commissioner's Requirement further notes that:

Where appropriate, the child's wishes regarding visitation will be considered (taking into account their age and any known factors such as cognitive development, emotional maturity etc.)

However, the General Manager reserves the right to refuse any visitor admission to the prison if there are concerns for the security and good order of the prison, or the safety or well-being of others.³⁶

The Committee was very concerned to hear how debilitating the application of Restricted Access statuses has been for parents. Further, the Committee notes that the significant turnaround time of at least two to three months for an application means

31 Shane, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

32 Ibid.

33 Name Withheld, A father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

34 Melinda Walker, Criminal Lawyer, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 53.

35 Corrections Victoria Commissioner, *Commissioner's Requirements*, p. 3.

36 Ibid.

that the relationship between the parent and child can suffer dramatically without an opportunity for rectification, which can be counter to the best interests of the child. The Committee believes that the Restricted Access policy needs to be reviewed to ensure that children can engage with their parents in a safe way soon after the parent's reception into prison in line with the recommendation made by the Council of Europe.³⁷ The Committee also believes that greater consideration of the child's wishes should be embedded into the process.

FINDING 53: The administrative process of Restricted Access statuses is a significant barrier for children and parents maintaining contact. Consideration should be given to balancing safety with the child's right to contact with their parent.

In a public hearing, Commissioner Larissa Strong, Commissioner at Corrections Victoria, acknowledged that there were a number of issues with the Restricted Access policy:

I think it is fair to say we probably need to look into how that is applied and whether we have got the balance right. So you can see the intent behind it. Whether we have got the balance right I think is something we will look into, because there is a process to apply to be able to have that, which is based on an assessment, based on getting some clinical advice of any risk to the child – whether we have got that process working smoothly. I think there are a few avenues we need to explore about how we apply the Restricted Access policy.³⁸

The Committee believes that a review needs to take place to ensure that the Restricted Access process is fit for purpose, and the rights of the child to maintain contact with their parent is central to the process. The impact of restricting contact for three months—and often longer—during an administrative process may put significant stress on the relationship between parents and children. In situations where safety is a concern, other options—such as supervised visits—should be explored.

RECOMMENDATION 18: That Corrections Victoria reviews the policy and implementation of Restricted Access statuses to appropriately balance the safety of the child with the rights and wishes of the child to maintain contact with their parent. Policy should require that applications are dealt with in a timely manner, with regular progress updates provided.

³⁷ Council of Europe Committee of Ministers, *Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents (2019)*, CM/Rec(2018)5, Committee of Ministers, 1312th meeting (4 April 2018)

³⁸ Commissioner Larissa Strong, *Transcript of evidence*, p. 58.

7.1.3 Experiences of parents in prison

Everything revolves around [my son] now, from now on. That's the incentive.

Dean, a young father incarcerated at Malmsbury Youth Precinct, *Committee site visit*, supplementary evidence received 27 April 2022.

While this Inquiry is centred on the experiences of children affected by parental incarceration, communications with people in prison almost always need to be initiated by the person in prison. As such, the Committee has considered the lived experience of parents in prison to understand their experiences trying to contact their children during their incarceration.

Members of the Committee spoke to groups of parents at Dame Phyllis Frost Centre and Ravenhall Correctional Centre on Wednesday 20 April 2022, and spoke to fathers in Loddon Prison on Wednesday 27 April 2022. Members of the Committee also spoke to some young men incarcerated at Malmsbury Youth Justice Precinct (Senior Campus) about the impact of their incarceration on their families.

The Committee was grateful for the opportunity to speak with everyone and appreciated the insights from all the parents. What was clear to the Committee was how much each of the participants valued contact with their children, and how difficult separation was. For some of the dads who had experienced their own parents in prison during their childhood, there was an added layer of pain and guilt knowing how their children had been impacted by their actions.

Some parents spoke to the Committee about their decisions not to tell their children that they were in prison. Carl, a dad at Loddon Prison, spoke about his daughter not knowing where he is:

My kid, she says “why don’t you play with me anymore?” And I tell her I’m at work.³⁹

Brendan, who is also at Loddon Prison, tried to keep his whereabouts from his daughter for as long as he could.

My daughter thought I was at work for the first four, five years I was here until she got to the age when she knew what prison was. She said “You’re not at work, you’re in jail,” and I had to have that conversation with her.⁴⁰

Chot, a young man at Malmsbury Youth Justice Precinct, noted that his siblings didn’t know where he was and his mother wouldn’t tell to protect them:

At the moment, my mum tells my little siblings I’m out working in Colac.⁴¹

³⁹ Carl, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

⁴⁰ Brendan, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

⁴¹ Chot, a young man incarcerated at Malmsbury Youth Justice Precinct, *Committee site visit*, supplementary evidence received 27 April 2022.

Other men also told their children they were away at work. Another prisoner, known as DP, shared his concern that his clothes would give away his location:

My daughter, she thinks that I'm down here working. In Western Australia, I could get a white shirt like I wasn't [here in prison].⁴²

However, some dads made sure that their children knew where they were. One of the dads that spoke to the Committee wanted his daughter to know that he wasn't making the choice to stay away from her.

I'm not gonna tell her I'm away at work so she thinks I have the option to come home [when I don't].⁴³

Many of the parents spoke about the toll that COVID-19 health and safety protocols had taken on their relationships. Cynthia, whose son is eligible for vaccination but isn't yet vaccinated, had not seen her children in person for eight months. She spoke to the Committee about how all she wanted was to give her kids a cuddle, but she wasn't able to due to vaccination requirements to enter the facility.⁴⁴

The impact of the lockdowns was described as a 'loss of momentum', with one dad at Ravenhall Correctional Centre saying that 'It's really hard to pick back up where you've left off' after the contact is initially broken.⁴⁵ Another dad agreed, stating that:

It's getting harder to talk to them ... you're two strangers, you've lost all momentum.⁴⁶

Nick, a father of two at Loddon Prison, spoke about the heartache of watching his kids grow up without him during lockdowns:

Last time I saw my kids was 2019. My little daughter now is 13, my son is 17—now we're complete strangers.⁴⁷

He also spoke about his reservations bringing his children into a prison environment:

I was embarrassed to bring my kids to jail ... bringing them to jail was a big thing for me.⁴⁸

Dean, a new dad at Malmsbury Youth Justice Precinct, also didn't want to make his baby and his baby's mum visit him. He told the Committee that he'd 'prefer not, like I don't

42 DP, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

43 Jye, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

44 Cynthia, A mother incarcerated at Dame Phyllis Frost Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

45 Brice, A father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

46 Jesse, *Committee site visit*.

47 Nick, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

48 Ibid.

want them to come in this environment.' Instead, Dean was prepared to wait until he was out of custody to meet his baby for the first time.⁴⁹

Rachael Hambleton, whose father passed away after a police-initiated contact in 2017, recounted her father's resistance to bringing her into a prison environment:

He was in Barwon and Port Phillip for a while and he really did not want us to visit him, because he just I think felt like it was not an environment for children to be in. He did not want them to have to go through that, so we would communicate on the phone and via letter.⁵⁰

For a lot of parents, understanding processes was a huge barrier. For those that were able to engage with bureaucratic processes to set up contact, many were met with long wait times or other obstacles. Some told the Committee about experiences of their applications for contact that 'just sat on a desk somewhere' for months. Other dads in Ravenhall Correctional Centre were frustrated with the lack of receipts when they submitted requests for visits and paperwork:

If you're using it online, it disappears. It goes away. No one will follow anything up on us.⁵¹

Some said that even when Zoom visits were approved by all parties, visits simply never happened:

Everybody said yes, everyday—but [the application] never made it.⁵²

Johnnie, who provided evidence to the Committee about his experience as an incarcerated primary carer of young children, spoke about the difficulties making sure that his family was okay. He told the Committee that his contact often hindered on the money in his account:

Prison, for me, you know with my experience, very hard to get phone calls, you know. For prisoners, to get welfare calls, stuff like that, it's very hard for them to get welfare calls to their kids and everything and their partners or whatever, you know. They've gotta have money in their account all the time. And once the money runs out, no phone calls, that's it.⁵³

Others spoke about how difficult it was to be restricted to remote communication with younger children. Jaccob noted that when he speaks to his children, 'it's surface talk, I can't really go too deep because they're still young.'⁵⁴ Kaleb agreed, and told the

⁴⁹ Dean, A young father who was incarcerated at Malsbury Youth Justice Precinct, *Committee site visit*, supplementary evidence received 27 April 2022.

⁵⁰ Rachael Hambleton, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 3.

⁵¹ Name Withheld, *Committee site visit*.

⁵² Justin, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

⁵³ Johnnie Tjepkema, *Video*, supplementary evidence received 12 May 2022, 16.31–17.08.

⁵⁴ Jaccob, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

Committee that it was hard to explain prison to his child due to their young age and their existing ideas about prison:

You can't talk to a four year old ... me just saying to him that it's not a bad place [is] not gonna change what he sees on TV... it's drummed into his head.

Police get the bad person. You can't tell them it isn't [like that].⁵⁵

The parents also spoke about feeling powerless to help their children who were suffering because of their incarceration, and the harm that separation was causing.

My daughter's having so much anxiety while I'm in here. Sometimes, they're spraying my jumpers with my aftershave [to calm her].⁵⁶

I feel like I've let them down as a father, because I'm not there for them.⁵⁷

It's been harder on [my daughter] because she really needs her father. It's affecting her mental health to the point where she's self harmed.⁵⁸

The parents who spoke to the Committee made it very clear that they wanted their role as parents and carers to be acknowledged, respected and enabled throughout their incarceration. They made the following recommendations to the Committee:

- recognise that parents don't stop being parents just because they are in jail
- regular family case planning should be standard so parents can engage in their child's care and contribute to decisions (i.e., schooling, medical)
- consider ways to safely engage with children and rebuild relationships, and allow children to change their mind about contact at any stage
- age-appropriate support should be provided to children to navigate their parent's incarceration
- relationships with ex-partners, co-parents and other family members can cause issues with visitation and mediators or other supported visitation workers should be made more widely available
- families outside need emotional, educational, transport and financial support
- more support is required on release to give parents a safe space to reunite with their children.⁵⁹

⁵⁵ Kaleb, *Committee site visit*.

⁵⁶ Nick, *Committee site visit*.

⁵⁷ Raymond, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

⁵⁸ Justin, *Committee site visit*.

⁵⁹ Parents and young people incarcerated at Dame Phyllis Frost Centre, Ravenhall Correctional Centre, Loddon Prison and Malmesbury Youth Justice Precinct, *Committee site visits*, supplementary evidence received 20 and 27 April 2022.

FINDING 54: Parents in prison do not consistently have their status as a parent or carer recognised. There are significant challenges for parents trying to maintain their relationships with children, and it is very difficult for parents to have a role in planning their child’s care while incarcerated.

RECOMMENDATION 19: That the Victorian Government ensure there are straightforward and accessible opportunities for parents to engage in their child’s care during the parent’s incarceration.

7.2 In person contact

First three years it was really good. I would see them every week. If there were visits on Saturday and Sunday, I’d see them on both. I was eligible for family visits. We’d get the room, have a pizza, watch movies. It was great.

Last time I saw my kids was 2019. My little daughter now is 13, my son is 17—now we’re complete strangers. I don’t know them.

My daughter, every time she used to come, she’d ask the officers if she could stay. You know, that hurt a lot.

Nick, a father incarcerated at Loddon prison, site visit, 27 April 2022.

Face-to-face visits are often recognised as the most effective way to maintain strong family connections throughout a prison sentence as they are the closest thing to a replication of regular family life.⁶⁰ As noted in Chapter 2, to promote healthy development and social and psychological wellbeing, children need to be able to experience ‘warm, intimate, and continuous connections with their parents or parental figures in a way that produces satisfaction and enjoyment.’⁶¹ Further, for young children aged birth to five, ‘It is really important for those children to smell and touch [their parents], in terms of the child-parent bond and attachment theory. That cannot happen’ with other methods of contact.⁶² As such, face-to-face visits offer the most complete opportunity to maintain and improve a healthy relationship between children and parents. This is supported by most research which indicates that visits have a positive impact on the wellbeing of the child, their connections with their parent, and on the parent themselves.⁶³

60 Danielle Haverkate and Kevin Wright, ‘The differential effects of prison contact on parent-child relationship quality and child behavioural changes’, *Corrections: Policy, practice & research*, vol. 1, no. 5, 2020, p. 4.

61 SHINE for Kids, *Submission 19*, p. 9.

62 April Long, *Transcript of evidence*, p. 13.

63 SHINE for Kids, *Submission 19*, p. 22.

For many children and parents, there can be a ‘dramatic shift in contact with children that primary carer’ mothers and fathers may experience, from daily face-to-face contact to relying on others to facilitate contact.⁶⁴ Being able to reengage in person can allow parents and children to protect their relationship, and positive visits can benefit both the person in prison and their children and family members. For children, visiting their parent in prison might reassure them that their family member is safe, or help them understand what their parent is going through. In its report, *Join the Dots: Considering the impact of parental incarceration on children and young people*, the South Australian Commissioner for Children and Young People included children’s experiences of visitation with their parents:

They spoke about the importance of contact and visits to put their ‘mind at ease’, to know their parent’s ‘real situation’ and to be reassured that their parent is okay.⁶⁵

However, for many children and young people, visiting a parent in prison can be a scary and traumatic experience. This is highlighted in Dr Marietta Martinovic and Grace Stringer’s submission to the Inquiry, which explains that:

This is typically because prison visits may serve as a reminder of trauma experienced related to their parent’s incarceration (e.g., witnessing parent’s arrest, separation from their parent) but can also be due to processes that a visitor must go through prior to entering the prison, such as enduring drug dogs, pat downs, and more recently intense COVID-19 protocols (Arditti, 2012).⁶⁶

In order to ensure that visitation is a positive experience which does not cause harm to children, processes and accessibility of prison visits need to be redesigned to recognise that visitation is ‘an important opportunity to promote family bonds’ between children and incarcerated family members.⁶⁷ This Section discusses the rights to visitation, the need for appropriate child-friendly infrastructure, and outlines key challenges to maintaining positive visitation.

7.2.1 Visitation allowances

In Victoria, relatives and friends of people in prison are allowed to visit a person who is incarcerated under the approval of the Governor. Visits may be either no contact or they may allow physical contact between the visitors and the person in prison. These are legislated under s 37 and s 38 of the *Corrections Act 1986* (Vic). The minimum standards of visitation are set out in s 47(k) of the *Corrections Act*, which states that every prisoner has ‘the right to receive at least one visit which is to last at least half an hour in each week under section 37’.⁶⁸

⁶⁴ Dr Alannah Burgess, *Submission 10, Attachment 1*, p. 45.

⁶⁵ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 33.

⁶⁶ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, pp. 9–10.

⁶⁷ SHINE for Kids, *Submission 19*, p. 6.

⁶⁸ *Corrections Act 1986* (Vic) s 47(k).

In her appearance at a public hearing, Commissioner Strong noted that these legislated provisions are the most basic allowances for visitation, and are supplemented by other policies and practices:

The *Corrections Act* has some minimum standards—very much minimum—in terms of visits per week, and they are non-contact visits ... In support of the *Corrections Act* are Commissioner's requirements and deputy commissioner's instructions and also, importantly, the Charter of Human Rights and Responsibilities, which is also part of our obligations in terms of managing a safe and humane system.⁶⁹

The Corrections Management Standards for both men's and women's prisons in Victoria specify that as a minimum, incarcerated people should be eligible for:

- one non-contact visit per week of at least 30 minutes duration, for those prisoners ineligible for contact visits
- one contact visit per week of at least 60 minutes duration, for those prisoners eligible for contact visits⁷⁰

In Commissioner's Requirement 3.2.1, *Management of Visits to Prisoners*, it is noted that 'All prisons must have processes in place to facilitate personal and professional visits for all prisoners'. To visit a person in prison, anyone aged 16 years or older must be on the incarcerated person's approved visitor list. Visits must be booked in advance through the individual prison's booking system. Anyone aged 16 years or older must also provide 100 points of identification on arrival.⁷¹

7.2.2 The need for child-friendly visitation

Prisons have not been designed for children, parents or visitation with family. It is an environment that is hostile, intimidating and lacks child-friendly facilities especially where a child has a disability. Nor do they allow for opportunities to practice parenting skills whilst imprisoned. This has an impact on family connectedness and affects a parent's ability to parent or remain connected with the child during and post release.

VACCA, *Submission 29*, p. 10.

Throughout the Inquiry, stakeholders consistently highlighted the lack of child-friendly, family-centric infrastructure in Victoria's prisons. As noted by Adjunct Professor Aunty Muriel Bamblett AO, Chief Executive Officer at VACCA, children who visit their parents are 'confronted with an environment that is often hostile and intimidating, cold, and lacking appropriate child-friendly facilities, especially where a child has a disability.'⁷²

⁶⁹ Commissioner Larissa Strong, *Transcript of evidence*, p. 54.

⁷⁰ Corrections Victoria, *Correctional management standards for men's prison in Victoria*, policy paper, Victorian Government, Melbourne, July 2014, p. 59; Corrections Victoria, *Standards for the management of women prisoners in Victoria*, policy paper, Victorian Government, Melbourne, July 2014, p. 64.

⁷¹ Corrections Victoria, *Contacting and visiting prisoners 2022*, <<https://www.corrections.vic.gov.au/prisons/contacting-and-visiting-prisoners#inperson-personal-visits>> accessed 31 May 2022.

⁷² Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 21.

April Long, National Operations Manager at SHINE for Kids, further noted that the prison infrastructure in Victoria is not designed to facilitate visits with children:

I think on the whole design, what we would say is that we have very old prisons in Victoria that have not been designed with any consideration around children—you know, making sure there is adequate play equipment, making sure that it is child friendly.⁷³

Dr Marietta Martinovic and Grace Stringer noted that unfriendly and intimidating visitation environments can impact children’s mental health. The submission notes that:

The physical environment of prison has also been noted as a difficulty of visitation, with some characterised by unclean spaces and occupied by rude correctional officers (Arditti, 2012). For small children, these processes and spaces can be particularly uncomfortable and even frightening. Incarcerated parents who have had their children and family visitors experience this have also shared to us the discomfort and upset of knowing this is happening to your family. In some cases, these experiences can become a stressor or source of trauma and can make families - especially young children - hesitant to return for future visits (Miller, 2006; Weidberg, 2017). Naturally, this increases the strains on the relationship children have with their incarcerated parent and in turn provides another source of stress for those children (Saunders, 2018).⁷⁴

For many families visiting a person in prison, the environment can dictate whether or not they feel comfortable bringing a child in to visit.⁷⁵ The need to recognise children as a primary cohort visiting prisons should be captured in child protection policies and infrastructure design. In her appearance at a public hearing, Professor Nancy Loucks noted that standard child-appropriate policies needed to be incorporated at all prisons:

It is recognising children as part of the prison context—that they might not be held in prison but they will still be entering prisons and entering into that space where they need to be recognised ⁷⁶

The following sections discuss certain elements of visitation and consider how to implement child-friendly procedures:

- in the processing experiences on arrival to the prison
- throughout the visitation process
- to improve accessibility to visitation.

Processing

To visit a Victorian prison, visitors are required to undergo a security screening process, known commonly as ‘processing.’ On arrival, people may be required to wait before the

⁷³ April Long, *Transcript of evidence*, p. 15.

⁷⁴ Marietta and Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 10.

⁷⁵ Dean, *Committee site visit.*; Brice, *Committee site visit.*

⁷⁶ Professor Nancy Loucks, *Transcript of evidence*, p. 4.

staff are ready to process them. According to Corrections Victoria, most waiting rooms are now equipped with seating, toilets and vending machines.⁷⁷

At the prison, reception will ask for the name of visitors and 100 points of identification. Any approved property being brought into the prison will be checked and visitors can place any personal property in storage lockers while they are in the prison. Depending on the level of security of the prison, processing may include:

- x-ray scanning possessions
- metal detection via machine and/or wand
- drug detection, including via sniffer dog
- biometric scanning (iris, fingerprint or hand).⁷⁸

If Corrections Victoria staff have a reason to believe that a visitor may be in possession of an illicit substance, the visitor may be subject to a strip search. Visitors have the right to refuse a strip search, but this may result in them being banned from visitation for up to three months.⁷⁹

At the time of writing, additional measures introduced due to COVID-19 health and safety protocols are still active and will be checked during processing. This includes:

- providing proof of vaccination or medical exemption
- undertaking rapid antigen tests
- undertaking a questionnaire about COVID-19 symptoms.⁸⁰

For children, the initial processing to visit the prison can be intimidating and often traumatising before even seeing their parent. The Committee heard many difficult experiences visiting prison, and to make sure that these experiences are shared, a number of these experiences are collected below.

Some people spoke about the fear and anxiety going through processing.

just the initial thing of going through all the processing and stuff just makes you so anxious, never knowing what officers will be on and how they will talk to you and stuff

H, closed hearing, via Zoom, 25 May 2022, *Transcript of evidence*, p. 14.

On arriving at the prison for our first visits Joel was only 5. I haven't been to Dame Phyllis Frost since the new building opened, so I can only talk to the old entrance, but the waiting room was dirty and crowded, with kids sitting on the floor in the dirt.

⁷⁷ Corrections Victoria, *Visiting a prisoner - going through security*, video, 16 December 2013, <<https://www.youtube.com/watch?v=-AyRXCXiw5U&list=PLDWmdZw0cWqwwrYQwvU8Qhtun4F7eZvHJ&index=6>> accessed 7 June 2022.

⁷⁸ Ibid.; Doogue and George Defence Lawyers, *Victorian prison information booklet: A helpful guide to visiting a friend or family member in prison*, (n.d.), <https://www.criminal-lawyers.com.au/wp-content/uploads/2017/03/DOBG_prison-info-e-booklet.pdf> accessed 7 June 2022.

⁷⁹ Corrections Victoria, *Visiting a prisoner - going through security*, video.

⁸⁰ Corrections Victoria, *Contacting and visiting prisoners*

Other visitors were kind enough to help me out with procedures and Joel was so focused on seeing his beloved mother that the surroundings did not really impact him ... During the years that we spent going to the prison every Sunday, only one officer treated us as if we might not be criminals ourselves ...

Most of the time, the fear of saying the wrong thing and not getting in was very real, so waiting for an hour in that horrific room was not up for complaint.

A grandmother visiting Dame Phyllis Frost Centre with her grandchild, Marietta and Stringer, *Submission 32*, p. 15.

to get into some of those Christmas parties I, together with my volunteers and together with the families who were waiting to get in, had to stand in a line and have the sniffer dogs come up and down. Some of the sniffer dogs were larger than the children they were sniffing, so that can be a pretty intimidating experience for a toddler to have a dog in their face.

Glen Fairweather, General Manager, Prison Fellowship Australia, public hearing, via Zoom, 9 May 2022, *Transcript of evidence*, p. 21.

Once the sniffer dog sat on me for a false positive, and it was one of the worst experiences of my life ...

And then afterwards I was just so humiliated. The officers said to me, 'Be careful who you're friends with. You could have some odour or something on you'. And then my mum was like 'Oh, [H] doesn't have any friends.' It was awful.

H, closed hearing, via Zoom, 25 May 2022, *Transcript of evidence*, p. 12.

There can be additional difficulties providing 100 points of identification, which can be particularly hard for Aboriginal community members who may not have standard identification documents.

I've taken his great-grandma, so her grandma, to visit. And again, that was a problem. We'd arranged it with the Aboriginal Liaison Officer and when we arrived it was like, a problem because there wasn't any identification and things like that. That can be hard for Aboriginal people. And just trying to get her in, if it wasn't me and somebody who'd been there and confident and white, they would have just got turned away. So it's kind of a bit of a mixed bag with those experiences.

A submitter associated with Elizabeth Morgan House, *Submission 41*, 5:14–5:45.

There were also multiple reports of intimidating and unfriendly attitudes displayed by Corrections Victoria staff members.

I remember being patted down. I was a little girl, and I remember how they would like pat me down and they put a wand on me, the prison officers. I remember being so scared sometimes of the prison guards because they were just so scary looking and really tough looking—just really stern. That was definitely scary. That is something that I remember ...

Those two things definitely stand out in terms of just the feeling of going into a prison and being stared at and even, maybe it was for me, feeling like there is something wrong with me as well, like, ‘You’ve come here and your dad is in prison, so you’re suss as well.

Clarisa Allen, public hearing, via Zoom, 9 May 2022, *Transcript of evidence*, p. 15.

The staff, they don’t care about your family at all.

Raymond, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, 20 April 2022.

with the guards as well, I think they definitely, because your parent is incarcerated, treat you with—is it malice? They are pretty mean and full on, and you are just a little kid. So just I guess more trauma-informed professionals, really, would have been helpful for me.

Holly Nicholls, public hearing, via Zoom, 9 May 2022, *Transcript of evidence*, p. 16.

One father recounted the enduring impact of strip searches on their family members.

On one occasion at PPP [Port Phillip Prison], my ex-wife was asked to undergo a strip search. She said that she was not comfortable doing so, especially in the presence of our daughter. She was then told, in front of our daughter, that if she did not comply she would be banned from visitation for at least 6 months and even then, only with permission from the Governor of the prison. On hearing this, my daughter broke down in tears at the possibility of not visiting me for an extended period. As a result, my ex-wife conceded to the strip search which was conducted in front of our daughter. Witnessing the strip search was very distressing for my daughter who was already extremely emotional because of the overall visit process, the threat of not being able to visit me and the poor and demeaning attitude of the prison officers. Unfortunately, it is an experience that she remembers to this day. It should also be noted that I was not incarcerated for any drug related offence, nor had I ever returned a urinalysis positive for drugs or been suspected of drug use while incarcerated – factors which are usually considered before visitors are required to undergo a strip search.

A client of VACRO, *Submission 32*, p. 16.

Gatehouse procedures were identified as a key opportunity for change from a number of stakeholders. Even with positive infrastructure within the prison, unfriendly processing still impacted visitors. Rachael Hambleton spoke about the juxtaposition between hostile processing procedures existing in prisons with child-friendly spaces:

I went to Fulham, and that one was a bit nicer. I can remember being there and seeing—like, they have got kind of play equipment for children, and I can remember just watching these children but kind of then thinking about the process of like, when you are coming in. It is so unpleasant, but then you get in and it almost feels like a McDonald’s cafeteria with a playground, which is a funny experience.⁸¹

⁸¹ Rachael Hambleton, *Transcript of evidence*, p. 3.

The Commissioner for Corrections Victoria, Larissa Strong, acknowledged the difficulties balancing security requirements in processing with a child-friendly focus:

I think it is to some extent not unlike an airport in that I think it is very difficult to work out—some of the things you go through are similar—how we would do that in a way that is feasible for us. Certainly we would expect our gatehouse staff not to be scary or intimidating and to be very respectful of families that are visiting the men and women.⁸²

Commissioner Strong also noted that there had been no reviews of the ‘entry process for children per se’. Despite this, there have been efforts to ensure that new gatehouses are friendlier and more appropriate for visiting families.⁸³

Evidence provided to the Inquiry suggested ways to balance security requirements with child-friendly practices. April Long, National Operations Manager at SHINE for Kids, gave an example of child-friendly practices being incorporated into security protocols.

I have seen some great practice from correctional officers where they will wave the security wand and do the things they have to do but pretend it is a lightsaber and make it more child friendly.⁸⁴

April also spoke about some of SHINE for Kids’ initiatives in New South Wales to make the visiting experience more family friendly. In 10 correctional centres through the state, SHINE for Kids have set up Child and Family Centres ‘so as you enter the complex there is a big yellow demountable’ which SHINE for Kids staff work from.⁸⁵ In the Centres, families can drop in and spend time before processing or after their visit into the prison. The Centres have tea and coffee facilities, changing facilities, and child-friendly toys and activities. Families can access referrals at the Centres, learn about the prison system from SHINE for Kids staff, or pick up food supplies provided by various charities if needed.⁸⁶

For more information about SHINE for Kids and the supports they provide, see Chapter 8.

Leigh Garrett, Chief Executive Officer at OARS Community Transitions, spoke to the Committee about a similar initiative in South Australia where his organisation had set up a family centre in South Australia’s high security prison, Yatala Labour Prison:

This provided both pre- and post-visit support for parents and children as they were visiting their loved ones—mainly fathers and, regrettably, increasingly more their mothers who have been incarcerated in recent years. This was a really important facility. There are many of these around Australia, and we have a small service run mainly by

⁸² Commissioner Larissa Strong, *Transcript of evidence*, p. 59.

⁸³ *Ibid.*, p. 55.

⁸⁴ April Long, *Transcript of evidence*, p. 15.

⁸⁵ *Ibid.*

⁸⁶ SHINE for Kids, *Programs: Child and Family Centre*, 2022, <<https://shineforkids.org.au/programs/child-and-family-centres>> accessed 7 June 2022.

volunteers, but I cannot really stress enough the value of that type of services; it is absolutely critical.⁸⁷

The Committee was saddened to hear of so many negative experiences during visitor processing in correctional centres across Victoria. More work is needed to recognise that children and families are a key cohort entering prison for visitation, and therefore their experiences should be considered in the process design. Family centres, such as those provided by OARS Community Transitions in South Australia and SHINE for Kids in New South Wales, should be considered throughout Victoria to provide families a safe place to prepare for a visitation before processing.

The Committee recognises that Corrections Victoria is bound by strict security and safety protocols, however believes that more can be done to ensure that families and children do not have negative or traumatic experiences during the processing stage of a prison visit. Further discussion about appropriate child-friendly training for Corrections Victoria staff is included in Chapter 8.

FINDING 55: Security processing procedures at prisons are not currently suitable for children visiting their parents. These processes can be unfriendly, hostile or traumatising for children visiting family members in prison.

7

Contact visits

In Victoria, the duration of visits is often dependent on the prison, security classification of the person being visited, and availability of resources to facilitate visitation. Visits can be anywhere from an hour's duration or have no time limit within specified visiting hours.

In Victoria, prisons generally have a designated visitor centre where friends and families can see their loved ones. An example of a Victoria prison visitor centre is shown in Figure 7.1.

⁸⁷ Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 1-2.

Figure 7.1 A visitor centre at a Victorian prison



Source: Corrections Victoria, *Visiting a prisoner – going through security*, video.

The facilities available for children generally differ throughout the prisons, but may include:

- playgrounds
- toys
- children’s activities
- books
- change table
- nappies.⁸⁸

Some prisons also have assisted play initiatives, which are described further in Chapter 8.

For many stakeholders throughout the Inquiry, there were positive memories associated with contact visits. Some of these experiences are included below.

I think it was always good around Christmas time. Seeing other families sometimes in—what is it called? I cannot think of the name now, but one of the prisons was all decorated. It was just all lovely.

H, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 14.

⁸⁸ Doogue and George Defence Lawyers, *Victorian prison information booklet*.

I remember going to the prison when I was young, I was rapt. Got to see my mum, vending machine, make it a day out, Nan got us Maccas. It was great.

Jye, a father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

we spend a lot of time outside playing basketball and things like that, which is a really fun engaged activity. So as he got older he was playing basketball, that was just awesome.

A submitter connected to Elizabeth Morgan House, *Submission 42*.

While there were a lot of positive experiences with visitation, the Committee heard feedback that visitor centres weren't necessarily fit for purpose or suitable for children. This was consistent with the findings in the Commissioner for Children and Young People South Australia report, *Join the Dots: Considering the impact of parental incarceration on children and young people*, which shared children's experiences of prison environments. The report stated that:

Children and young people described how prison environments are not designed to meet the needs of families and are not conducive to genuine connection between children and parents. They described the visits as loud and crowded with a lack of access to necessities like food and toilets, or change rooms for infants and babies.⁸⁹

The report also reported that children and young people wanted visiting spaces:

- to feel more natural and home-like
- to be appropriate for a range of ages
- with hang out and play spaces
- with access to food, drinks and toilets.⁹⁰

Some parents reported that the centres can be sparse and 'sterile' places to bring families.⁹¹ Commissioner Strong from Corrections Victoria acknowledged that while some prisons did not have appropriate facilities, there had been an effort to ensure new facilities have family-friendly facilities, and that older facilities have appropriate spaces retro-fitted.⁹²

However, the Committee considers that the prison environment needs to be reimaged to suit families and children. As noted by Dr Martinovic and Grace Stringer, 'the addition of children's toys to a small, enclosed area does not necessitate a positive environment for children.' Visitor centre design should consider resources that allow children to:

- play
- relax

⁸⁹ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 34.

⁹⁰ Ibid.

⁹¹ Justin, *Committee site visit*.

⁹² Commissioner Larissa Strong, *Transcript of evidence*, p. 55.

- self-soothe
- self-regulate.⁹³

This was reiterated by other stakeholders, who noted that the pressure of maintaining conversation throughout a long visit made it difficult for both the children and the parents to relax and enjoy. Stakeholders talked about the need for more activities, toys and games to allow kids and parents to bond in a natural way. In its submission to the Inquiry, the Community Restorative Centre highlighted some key concerns from families visiting people in prison:

Families report experiencing lengthy waiting periods (often resulting in shortened visits), and struggle to manage around the lack of facilities for children. Access to healthy food, nappy changing areas, and toilet breaks are limited, and family visits are often terminated because the needs of children can't be met.⁹⁴

The Committee also heard about some of the difficulties experienced by people visiting prison or being visited while they were in prison. Some of these are captured below.

Parents spoke about the uncomfortable jumpsuits that they were required to wear, and the anxiety around not being able to use bathrooms during visitation.

The most undignifying part of visits, particularly with children, is that women at [Dame Phyllis Frost Centre] (and all incarcerated people in maximum security prison) must wear a bottle green jumpsuit which is cable tied at the neck to prevent drugs being smuggled into the facility. The suit is tight and very uncomfortable. It is not conducive to playing with or sitting on the floor with small children and – in the case of Sunday children-only visits which go for 4 hours – if you need to go to the toilet, your visit is void on the spot. If you have/get your period and need to attend to that, your visit is void and the child/children must go home on the spot. It's a difficult situation for mums, and women will often not drink all morning so they don't have a bathroom emergency threatening the time with their child/children. This process seems unnecessary, given the other security measures which exist.

VACRO, *Submission 32*, p. 15.

Parents also spoke about their frustration at not being able to provide a safe and welcoming environment for their children, including being unable to provide healthy food or access the canteen with their available spending money.

As the visits went on, I could sense my son was uncomfortable and not as free as a child should be to play and have fun. There was never a chance for one-on-one time with him, even though I was doing well within the prison. I felt the distance between my son and I begin to grow when he was just 6 years old (one year into my sentence).

Think Tank Member, via Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 20.

⁹³ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 22.

⁹⁴ Community Restorative Centre, *Submission 20*, p. 12.

As prisoners, we earn between \$35-\$50 a week, but for some reason we were not able to purchase food from the café through our ‘available spends’. I always felt it was too much to ask my mother to care for my child, pay for petrol and also bring money for food at visits. Some incarcerated women would not even know their children were coming, which meant they were unable to pre-purchase canteen food, or in other cases the family would not send money in, and the kids would have to sit in visits for hours with only tap water.

Think Tank Member, via Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 20.

Karen Fletcher from Flat Out Inc. spoke about the space constraints at Dame Phyllis Frost Centre, which has impacted the ability to schedule visitation.

We now have a situation at [Dame Phyllis Frost Centre], which you heard some terrific evidence about earlier, where the visits facilities are so small that it is really very difficult for people to organise visits.

Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 34.

Clarisa Allen spoke about exposure to other incarcerated people, and the trauma that it caused for her and her family.

I remember one time we went to visit Dad, and he was beat up and they had shaved his head. All the prisoners, because they were around, were watching to see our reaction, and I remember Dad saying, ‘Just chill. Act chill. Don’t act like anything has happened. Just act normal, because they’re watching to see what your reaction is’. And I remember just being so shocked and completely dumbfounded. I did not know how to react; I just started to cry.

Clarisa Allen, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 18.

In the Committee’s view, these experiences demonstrate the need for appropriately considered infrastructure, policies and practices to allow children to visit their family members safely.

Another element to suitability for children includes the timing of visits. Stakeholders raised the idea of making visitation times more child-friendly.⁹⁵ For most prisons, visitation hours are restricted to weekends or during school hours. Stakeholders proposed making after-school visits available to children, which could allow children to ask their parents for help with homework, or reduce the disruption on weekends for children participating in sports or other clubs.

The Committee was grateful to hear from Kelsey Gee, Lead Designer at the High Impact Innovation project (HIIP) at the Department of Corrections, New Zealand. Ms Gee designed the original concept for the Kea Project. This is outlined in Box 7.1 below.

⁹⁵ Commission for Children and Young People, *Submission 33*, pp. 6–7; Centre for Innovative Justice, *Submission*, p. 13; Norm Reed, Executive Officer, Onesimus Foundation, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 44; Rachael Hambleton, *Transcript of evidence*, p. 39.

BOX 7.1: The Kea Project

The Kea Project is a new visits experience, centred around the needs of children. It aims to strengthen connections between children and parents in prison, and begin to breakdown cycles of re-offending and generational youth offending. The project has been rolled out in a number of prisons in New Zealand including three women's prison sites.

Kelsey Gee told a delegation of the Committee:

For me it was about the space, As a child I was scared of going to airports and all the scanners. I thought, how would children cope with the experience of going to prisons?

Ms Gee talked about the project and its main 'touchpoints', which considered:

- What happens if we change the spaces that children would see in prison?
- How can we put things in place to allow children to have a normal time with their parents, that allow parents to be parents, teaching through parenting and kids learning through play.
- A lot of the men are away from their children for a lot of the time. How do we put measures in place that age appropriate for their children as they grow and develop?

An educational video was released by the HIIP team about what visitors can expect when visiting a prison touched by the Kea Project. The family-friendly animated video is available at: www.youtube.com/watch?app=desktop&v=TnAam0g1Viw.

Source: Kelsey Gee, Lead Designer, High Impact Innovation Team, Department of Corrections: Ara Poutama Aotearoa, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Wellington, New Zealand, 30 May 2022; HIIP Team, Department of Corrections: Ara Poutama Aotearoa, *Ngā Hoa Kaitiaki – The Guardian Friends*, video, 2021, <www.youtube.com/watch?app=desktop&v=TnAam0g1Viw> accessed 12 July 2022.

The Kea Project is redesigning spaces in prisons that children see so they feel safe and less anxious. The project is aiming to take anxiety away from children by informing them. Children are provided with small kits including a storybook about what they will experience, the spaces they will be in, games and puzzles and a soft toy. The design includes images that are replicated at a corrections facility. Prisoners are involved in designing and painting images in the corrections facilities. Figure 7.2 below shows examples of the paintings at visitation centres.

Figure 7.2 Kea Project Visitation Centre, New Zealand



The Committee has recognised from the evidence provided that in-person visits can be positive experiences, but more child-friendly policies and practices are required to ensure that visitation centres have child-friendly visitation available in all Victorian prisons.

FINDING 56: Visitation in Victorian prisons does not currently sufficiently account for children. More child-centric design and practices are needed to provide a safe, engaging and enriching environment for children visiting parents in prison.

Box visits/no contact visits

These are the memories she's gonna have of me, you know, through a window ... They're good kids, but this is what they're gonna see. For the next year, they're gonna see me through a window.

William, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

For people in prison who have had contact visits cancelled or restricted due to high-risk situations, box visits (no contact visits) are available. Box visits are conducted in individual cubicles with a perspex screen between the two parties, which means there is no physical contact available.⁹⁶ For box visits, children are also unable to bring anything into the room—including toys, food or drink.⁹⁷

April Long, National Operations Manager at SHINE for Kids, confirmed that SHINE for Kids 'do not advocate for those visits. [Our organisation does] not think they are in the child's best interests.' April explained that this was 'because you are actually punishing the child, and they do not understand—'Why can't I hug? Why am I behind this screen?'.⁹⁸

Larissa Strong, Commissioner at Corrections Victoria, also acknowledged 'how scary [box visits] might appear' and noted that consideration should be given to whether Zoom visitation should be used instead of box visits⁹⁹ as research has indicated that box visits 'have been described as being associated with distress for children and child behaviour problems'.¹⁰⁰

William, a father incarcerated in Loddon prison, told the Committee that the box visits impeded him from seeing his children as regularly as he'd like. He told the Committee that 'if [he] didn't have box visits, [he]d see them every week.'¹⁰¹ Johnny, another father who spoke to the Committee at Loddon Prison, pointed out the unfairness of removing contact visits from William's children because of his behaviour:

Not only is it punishing him, they're punishing his kids. There should be another way to do it without hurting the family.

Our children are punished for our bad behaviour. There should be other punishments for someone's behaviour ... The kids haven't done anything wrong.¹⁰²

The Committee acknowledges that box visits may be appropriate for certain situations (for example, preventing the transmission of disease) but does not see box visits as

⁹⁶ Dr Catherine Flynn, et al, *Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison*, Monash University Criminal Justice Research Consortium, online, 2020, p. 3.

⁹⁷ April Long, *Transcript of evidence*, p. 21.

⁹⁸ Ibid.

⁹⁹ Commissioner Larissa Strong, *Transcript of evidence*, p. 64.

¹⁰⁰ Dr Catherine Flynn, et al, *Maintaining family contact during COVID-19*, p. 3.

¹⁰¹ William, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

¹⁰² Johnny, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

appropriate for young children. Instead, consideration should be given to other ways to ensure safe visitation, such as supervised visits or Zoom visits, to ensure that children are not frightened by their parents when visiting.

FINDING 57: Box visits are associated with levels of distress in children. Other methods of safe visitation with the child's best interests in mind should be considered before resorting to box visits.

The Committee calls on the Victorian Government to prioritise children in visitation processes and infrastructure throughout the Victorian prison network. Positive environments are needed to give children the ability to engage with their parents in a meaningful way. Further, appropriate policies should be in place to consider the needs of children, such as food and bathroom needs, school obligations, and privacy.

RECOMMENDATION 20: Child-friendly visiting facilities and practices should be implemented in all prisons throughout Victoria. This includes:

- making child-friendly spaces available, preferably external to the main prison campus
- child-friendly spaces should include bathrooms, changing tables and spaces for breastfeeding
- making toys, play areas and appropriate furniture available
- ensuring staff members working in visitor centres are welcoming and can conduct security checks of children in an appropriate and friendly way
 - searches should not be conducted on children under the age of 16, unless there are reasonable grounds that suggest a search is required
- ensuring that visitation hours extend to after-school visits or other child-friendly visiting times
- providing activities for children and their parents to engage in a positive and supported way
 - supported programs for visitation should be implemented and readily available at all correctional centres.

7.3 Remote contact

Beyond in-person visitation, there are a number of ways for family members and friends to stay in contact with a person in a Victorian prison. This includes:

- video calls
- phone calls
- letters

- emails
- instant messenger (only available in Ravenhall Correctional Centre).

Remote contact can help supplement the connection built through face-to-face visits, or where appropriate, it can act on its own as the main channel of communication between children and parents in prison. This might be the case where there are safety concerns, or logistic difficulties allowing regular visitation. Additionally, for some children who are frightened of the prison environment or respond negatively to the institutional setting, remote contact can have a greater impact on relationship quality than visitation.¹⁰³

The following sections address the different methods of remote communication and outline the benefits and challenges of using them to maintain contact.

7.3.1 Video calls

As a result of health and safety protocols in Victoria due to COVID-19, face-to-face visitation in prison was suspended from March 2020 until 12 March 2022.¹⁰⁴ To ensure people in prisons could access their legislated minimum visits, Corrections Victoria introduced video call technology across all Victorian prisons in March 2020 as a substitute for face-to-face contact.¹⁰⁵ Prior to this, video visits were heavily restricted and only available in limited circumstances.¹⁰⁶

As a standalone initiative (rather than a direct replacement for contact visits), video calls have provided a new way for families to engage with incarcerated loved ones. For families with fathers incarcerated at Ravenhall Correctional Centre, drawing packs are available so that young children and their dads can colour in the same pictures together on a Zoom call. For some families who live a long way from the prison, or for carers who don't drive, Zoom has been a welcome relief to maintain contact beyond phone calls and letters. Further, for international parents, the chance to see their children for the first time in years has been possible due to video calls. Box 7.2 contains a story shared from a mother accessing video calls for the first time after being incarcerated since 2017.

103 Haverkate and Wright, 'The differential effects of prison contact on parent-child relationship quality and child behavioural changes', p. 6.

104 Commission for Children and Young People, *Submission 33*, p. 10.

105 Ahmed Yussuf, "The depression increased": The families who can't see their loved ones in prison', *The Feed*, 20 October 2020, <<https://www.sbs.com.au/news/the-feed/article/the-depression-increased-the-families-who-cant-see-their-loved-ones-in-prison/708qhoq8z>> accessed 6 June 2022.

106 VACRO, *Submission 17*, pp. 33–34.

BOX 7.2: An international mother accessing video calls for the first time

I have been incarcerated since June 2017 when I received a sentence of 8 years 6 months to be served at DPFC: a maximum-security prison. At the time I was only speaking French - my mother tongue - I was from another country as well as the only one from Canada. I had no family or friends in Australia.

I had no contact visits, and this prevented me from maintaining a connection with my five children. At the time I was very sad and developed depression. The only option to stay in contact with my children was through video Skype sessions that had to be approved. To get this approval I had to be incident free and apply to the general manager every three months to obtain four Skype sessions per year. This process took me 6 months to complete, meaning I saw my children for the first time since incarceration in December of 2017.

At the time I had an 18-month-old baby, as well as a 22, 20, 17 and 14 year-old. How could I be expected to maintain the mother-child bond with this crazy schedule of only seeing them for 30 minutes, four times a year? That leaves just six minutes to talk with each of them! And this meant I was unable to spend any of my Skype time with my mother, father, sister, brother, nieces or any other family and friends.

With the help of my counsellor, I wrote a letter to the general manager asking to have more frequent Skype sessions and explaining how keeping in contact with my five children, who are most important in the world to me, is very important. I also discussed the mental health struggles I was having at the time. Despite having spent this entire time incident free, becoming a good worker and trustworthy inmate, the final answer was “No.”

This is hard to believe but true.

So, in 2020, having seen my children only 12 times over three years, COVID-19 happened and suddenly every prisoner had no access to visits and was becoming depressed and acting out. In April 2020, the general manager announced everyone would have access to two 30-minute Skype sessions a week, providing the visitors are on our lists and still show their IDs as per normal visits. I was so very excited. This was a massive step for me, to have access to my children for 30 minutes twice a week, as well as getting to spend some of this time in contact with my mum, dad, sister, and niece!

For me in this situation, COVID saved me from depression and has actually helped me to keep going on with my sentence, finally able to keep what little bond I have with my children alive. I am still trying to revive this bond that was lost between us from all this time I've spent not being able to see them when they were needing me.

Source: VACRO, *Submission 32*, pp. 33–34.

At the time of writing, prison visits were being reintroduced and there was ongoing consideration of how video visitation will supplement other forms of contact—most notably, whether it should be considered within visit allocation or whether video calls should be considered as a phone call instead. Professor Nancy Loucks acknowledged

the benefits of introducing video calls but warned against considering them as a direct replacement for contact visits. Professor Loucks stated that, ‘The recent pandemic has underlined the value of options such as video calls, bearing in mind that these should never substitute for in-person visits.’¹⁰⁷

Stakeholders to the Inquiry overwhelmingly agreed that virtual visitation should not be considered a quality substitute for face-to-face contact visits.¹⁰⁸ However, the flexibility of free video calls was commended.

Professor Nancy Loucks noted that video calls have made it easier for busy children to stay in touch with their parents in prison:

What we see, for example, is when children reach teenage years they tend to visit less frequently. That is often because going to visit Dad in prison at the weekend kind of wipes out your whole weekend, whereas if you can do a 10-minute video call instead and you can still go and play rugby with your friends, then fantastic.¹⁰⁹

Commissioner Larissa Strong noted that this was consistent with assessments of the Zoom visits across Victorian prisons:

We did a very quick review of that process, and they were very popular, both among the men and women in our care but also amongst their families. They are very convenient for families. A lot of our prisons are in a regional location, so they do not take up a whole weekend for a family. They are easy. The men report they see their kid doing their homework at the school table, so it is a much more natural setting to interact in. They can see pets and things like that.¹¹⁰

Other stakeholders noted that it took the pressure off conversation and let parents and children engage in a different way than traditional prison visits. Lisa D’Onofrio, Prison Program Facilitator at Friends of Castlemaine Library, noted that Zoom had allowed parents and children to engage with the Read Along Dads program in real time:

With COVID one of them would take the book that we had done and would actually read to their kid over Zoom, and that gave them an activity to do what the kid saw as fun. It was not anything about learning words or whatever, it was a fun thing that their dad could do for them, and nothing was asked of either side.¹¹¹

For parents using Zoom, it was often seen as a double-edged sword. Craig, a father who spoke to the Committee about his relationship with his children during his incarceration at Loddon Prison, noted that there were benefits to Zoom at the start because he could

¹⁰⁷ Professor Nancy Loucks, *Transcript of evidence*, p. 3.

¹⁰⁸ See for example, VACRO, *Submission 17*, pp. 42–43; Commission for Children and Young People, *Submission 33*, p. 7; Smart Justice for Women, *Submission 37*, p. 7; Centre for Innovative Justice, *Submission*, pp. 13–14; Religious Society of Friends (Quakers), *Submission 5, Attachment 1*, p. 5; South East Monash Legal Service, *Submission 13*, pp. 6, 25; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 11; Public Health Association Australia, *Submission 21*, p. 2; VCOSS, *Submission 28*, p. 12; Professor Nancy Loucks, *Transcript of evidence*, p. 3.

¹⁰⁹ Professor Nancy Loucks, *Transcript of evidence*, p. 4.

¹¹⁰ Commissioner Larissa Strong, *Transcript of evidence*, p. 55.

¹¹¹ Lisa D’Onofrio, Community Arts worker and Read Along Dads Facilitator, Friends of Castlemaine Library, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 34.

see his kids in their house and ‘wake them up in the morning.’ However, like other dads, he agreed that while ‘it was good at the start’, the reliance on Zoom meetings instead of face-to-face contact was taking a toll.¹¹² Johnny, who spoke to the Committee in the same session as Craig, spoke about his experiences using Zoom, but didn’t think that they were a replacement:

I use the Zoom, but you can’t compare that to contact at all. It’s actually quite offensive when you try to compare that.¹¹³

Like Craig, other families were also experiencing Zoom fatigue. Moana Wati, Victorian State Manager at SHINE for Kids, observed the phenomenon in families participating in video visits:

they are Zoomed out. That is the feedback that I am getting from a lot of parents: that it is really hard to get the kids to sit and concentrate, or they just do not have anything to say, or they are just too shy. I think that maybe at the beginning of when COVID hit there was fun around it, but now I guess, because they had their schooling on Zoom, for them the feedback is that it is a struggle. And it is not that connection that we really want to help them with as well, so they are just like, ‘We’ve got to get back in to prisons’. The children are saying that they want to see Dad, touch, feel—and mums.¹¹⁴

Further, some people noted that video visits weren’t accessible for a lot of families. Julie Hourigan Ruse spoke about a digital divide observed for clients trying to access video calls:

We just assume that everybody has access to technology and to devices. And even if you have access to a device, what we learned during lockdown was the extraordinary cost of data. Zooming pulls a lot of data; it is really, really expensive. So there was enormous demand on the community sector to be providing those devices, the dongles, the data to be able to keep those families connected. We assume that everybody has digital literacy, and they do not.¹¹⁵

Professor Susan Dennison, Director at Transforming Corrections to Transform Lives, spoke about challenges in accessing video calls. She noted that her team had observed a lower uptake of video calls in correctional centres with a higher proportion of Indigenous community members. The research team found that a lot of the women were put off by the additional paperwork, and were not confident that their families could support resources needed for video calls:

It is also about then ensuring that the family members on the outside, particularly in remote communities and things like that, have access and are able to complete the paperwork that is required on their side in order to be able to access it and then can also access the computers at the time that the videoconference is going to take place.¹¹⁶

¹¹² Craig, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

¹¹³ Johnny, *Committee site visit*.

¹¹⁴ Moana Wati, Victorian State Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 14.

¹¹⁵ Julie Hourigan Ruse, Chief Executive Officer, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 15.

¹¹⁶ Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, pp. 36–37.

Professor Dennison noted that as a result of the administrative and technological burden, many women were saying that Zoom ‘is just too hard’ due to the resource-intensive nature of videocalls.¹¹⁷

April Long further observed that a lot of kinship carers were not as digitally literate. In Victoria, SHINE for Kids work with ‘a lot of grandparent carers, so that digital divide is greater.’¹¹⁸

Despite a number of challenges, video capability is generally seen as a positive introduction to prisons throughout Victoria which has increased the ability for children to engage with their parents in prison. However, the Committee reiterates the importance of ensuring that video calls are not considered equal to contact visitation, and where possible, should be used to supplement, rather than replace, face-to-face visits.

The Committee makes recommendations on this topic at Section 7.3.3

7.3.2 Phone calls

‘It took six weeks for my first phone call.’

‘It took me 40 days after being incarcerated.’

‘It was 26 for me.’

Justin, Raymond and DP, fathers incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

In Victoria, people in prison are permitted to make phone calls as a basic human right. According to the policy document for Corrections Victoria’s management of prison services, phones calls are critical for people in prison to ‘maintain contact and relationships with their family and friends, and to consult with and seek council from their legal representative.’¹¹⁹ Rights to maintain family connections are prescribed in s 17 of the *Charter of Human Rights and Responsibility Act 2006* (Vic). The legislation guiding the proper and appropriate use of prisoner telephone systems includes s 47(1) of the *Corrections Act 1986* (Vic) and *Corrections Regulations 2019* (Vic).

Details about the availability of prison telephone systems are outlined in the *Prisoner Telephone System* policy document issued by the Commissioner for Corrections Victoria. The document states that prisons must ensure access to telephones is available for prisoners to maintain communications with:

- family
- friends

¹¹⁷ Ibid.

¹¹⁸ April Long, *Transcript of evidence*, p. 15.

¹¹⁹ Corrections Victoria Commissioner, *Commissioner’s Requirements: Prisoner Telephone System*, policy paper, no. 4.2.1, online, April 2022, p. 3.

- other persons
- community agencies
- legal representatives
- other exempted persons.¹²⁰
- The document also outlines methods for paying for phone calls, maximum time allowed for phone calls and privacy measures for phone calls. These are set out at Table 7.2.

Table 7.2 Information about phone calls from Victorian prisons

Methods of paying	The prisoner is responsible for meeting their own call costs, unless exempted by the General Manager on welfare or legal grounds or in other exceptional circumstances.
Maximum time allowed	Entitlement is set by the highest security rating available at a prison: <ul style="list-style-type: none"> • 12 minutes for maximum and medium security prisons • 12 minutes for people in high security or management units • 15 minutes for minimum security prisons • no phone calls allowed for people who have lost their privileges except for legal representatives and exempt persons only.
Privacy measures	All calls that are not exempt will be recorded and may be monitored at any time.

Source: Compiled by the Legal and Social Issues Committee from Corrective Victoria Commissioner, *Commissioner’s Requirements: Prisoner Telephone System*, policy paper, no. 4.2.1, online, April 2022, pp. 3-4, 10, 17.

People in prison are able to make phone calls to an exempt telephone number or a private telephone number. These numbers must be pre-approved on a list. Up to 10 private numbers and 10 exempt numbers may be added to a person in prison’s telephone list. Calls to exempt numbers will not be recorded or monitored. A non-exhaustive list of exempt numbers is available in the *Prisoner Telephone System* policy document.¹²¹

To arrange calls, a person in prison must apply to have a phone number added to their list of approved numbers. While the Commissioner’s Requirement policy document notes that requests to add approved phone numbers should be actioned within three business days, the Committee heard from people in prison that it could take weeks to add a family phone number. In particular, fathers in Ravenhall Correctional Centre spoke about the lengthy delay between their reception into prison and the first contact with their family, reporting delays of 26 days, 40 days, and six weeks for their family to be added to their list of approved calls.¹²²

For children of incarcerated parents, this can be a confusing time. Waiting a long period of time for the first contact can increase worry and stress.¹²³ It can also create a sense of anxiety as children are unable to control when they speak to their parent, and

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Justin, *Committee site visit*; Raymond, *Committee site visit*; DP, *Committee site visit*.

¹²³ Professor Nancy Loucks, *Transcript of evidence*.

they ‘may feel under pressure to be home at a specific time’ to receive a phone call.¹²⁴ However, the Committee found that once regular phone contact is initiated, children—especially older children and teenagers—can benefit greatly from regular (at least weekly) phone calls as they significantly strengthen parent-child relationships.¹²⁵

Despite the benefits from regular phone calls, the Committee heard evidence about obstacles to maintaining contact via phone. The following sections outline some obstacles including costs and accessibility.

Prohibitive cost of phone calls

Throughout the Inquiry, many stakeholders have raised the prohibitive cost of phone calls as an obstacle to regular communication.¹²⁶ In their response to a question on notice, Corrections Victoria provided information about the cost of phone calls in Victorian prisons:

The current cost of mobile phone calls made by prisoners through the Prisoner Telephone System is \$0.30 cents for a call connection, with a rate of \$0.60 cents per minute with a minimum call charge of \$0.30 cents.¹²⁷

The costs of phone calls for people in prison were disclosed to VACRO via private correspondence with Corrections Victoria:

participants contact their families by making a phone call from the prison to a mobile phone. This costs \$0.32 per 30 seconds, which maximum call time set at 12 minutes. Parents who wish to use the full 12 minutes – which we would argue is still inadequate for a parent to, for example, have a good conversation with their child and get an update from the child’s carer – will spend approximately \$7.50 on that phone call. The prisoner pay rate is between \$3.95 and \$8.95 per day, with people on remand earning just \$3.30 per day.¹²⁸

Given the exorbitant costs for prisons compared to their maximum daily wages, stakeholders pushed for telephone communications from prisons to be free.¹²⁹

Karen Fletcher, Executive Officer at Flat Out Inc., summed up the key issues to the Committee:

¹²⁴ SHINE for Kids, *A survival guide for carers of children of prisoners, their families and workers*, (n.d.), <https://www.shineforkids.org.au/documents/putting_your_child_first_dec13.pdf> accessed 14 June 2022, p. 14.

¹²⁵ Haverkate and Wright, ‘The differential effects of prison contact on parent-child relationship quality and child behavioural changes’, p. 20.

¹²⁶ Dr Alannah Burgess, *Submission 10, Attachment 1*, p. 15; Victorian Aboriginal Children & Young People’s Alliance, *Submission 14*, p. 2; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, pp. 33–34, 37–38; VACRO, *Submission 17*, p. 7; VCOSS, *Submission 28*, p. 12; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 6; Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 43; Smart Justice for Women, *Submission 37*, p. 7; Centre for Innovative Justice, *Submission*, p. 12.

¹²⁷ Larissa Strong, Commissioner, Corrections Victoria, Inquiry into children affected by parental incarceration hearing, response to questions on notice received 20 May 2022, p. 2.

¹²⁸ VACRO, *Submission 17*, pp. 16–17.

¹²⁹ See Religious Society of Friends (Quakers), *Submission 5*, p. 5; VACRO, *Submission 17*, p. 20; VCOSS, *Submission 28*, p. 12; Law and Advocacy Centre for Women Ltd, *Submission 31*, p. 6; VAADA, *Submission 34*, p. 3; Smart Justice for Women, *Submission 37*, p. 7; Raymond, *Committee site visit*; DP, *Committee site visit*.

It is an instant thing that you could do, free phone calls. At the moment they are [about] \$1 a minute to mobile phones. And it is not to landlines, but who uses landlines anymore? So everybody is paying \$14 for 14-minute phone call to a child. Yet Telstra has made phone calls free from the public callboxes in the community, so why can't that be done in prisons for kids?¹³⁰

H, who spoke to the Committee at a closed hearing, told the Committee that they were struggling with not being able to speak to their father on the phone as much as they wanted to due to the cost of calls:

he moved to a new prison recently and the phone calls are more expensive, so we have had to cut back on that. It is really, really, hitting hard for me.¹³¹

H also told the Committee they 'always felt so guilty that [they were] taking up his money'.¹³²

Rachael Hambleton, Board Member at Flat Out Inc. and lived experience advocate, also spoke to the Committee about her experiences speaking to her father on the phone during her childhood, as her family couldn't afford to service a mobile and landline at the time:

My mum could only afford to have a mobile phone connected, so my dad would need to call a nearby neighbour at a time that they were available to have me over.¹³³

Ms Hambleton further stated that the costs for telephone calls was 'so opaque, the ways in which people are profiting and how they are profiting. It is so hard ... [to] get access to that information.'¹³⁴

When asked about the reasons for such expensive telephone calls, Corrections Victoria cited:

- costs of maintaining the phone system
- advanced requirements of a phone system which provides:
 - the ability to monitor recorded and live calls
 - the use of speech analytic methods
 - call monitoring information systems.¹³⁵

Other jurisdictions have moved to make telecommunications between people in prison and their families free. In the United States, New York City and San Francisco have both introduced free phone calls for local jails. In 2022, Connecticut became the first US state

¹³⁰ Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 38.

¹³¹ H, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 12.

¹³² Ibid.

¹³³ Rachael Hambleton, *Transcript of evidence*, p. 38.

¹³⁴ Ibid., p. 43.

¹³⁵ Larissa Strong, response to questions on notice, p. 2.

to legislate free phone calls to and from prison. As noted by VACRO in its submission to the Inquiry:

Proponents of the legislation argued that a private corporation should not be allowed to profit from the right of incarcerated people to contact their families; we note that in Victoria, phone calls are similarly provided via a for-profit private contractor.¹³⁶

Box 7.3 outlines Diane Lewis' journey to advocate for free phone calls in Connecticut.

BOX 7.3: Diane Lewis, Worth Rises, and making phone calls free in Connecticut prisons

At the 4th Annual Children of Incarcerated Parents National Conference in the United States, Diane Lewis, a Community Associate working at Worth Rises, shared her story about dealing with the costs of phone calls during her son's 14-year incarceration. His incarceration happened at a time when Connecticut has the least affordable prison communications in America—which included exorbitant charges for both the person making and receiving the call.

Free phone calls would have been so helpful. When my son went to prison in 2004 he was 17, so there was just no other option. I had to speak to him every day ... But I was not prepared for the financial burden that my son being in prison cost. I had to make decisions. The phone calls always won, that was the first bill I paid. There were some times the lights were out, there were some times the gas was turned off, everything in this house got cut off except the phone bill and my Securus bill. Everything else was cut off. I would charge my phone at work when my electricity went out, I would charge it at work and I would come home and I'd be talking to him in pitch black dark. But he didn't know. He thought everything was fine.

Following her experiences, Diane began working with Worth Rises, a non-profit organisation that has advocated heavily for the introduction of free telephone calls for people in prison and people receiving calls from prison.

As a result of the advocacy campaign, Connecticut is the first US state to legislate free telephone communications for all people within a correctional facility extended to 90 minutes per day. Senate Bill 972 was signed into law on 16 June 2021 and implemented from 1 July 2022. The relevant passage states that:

the commissioner shall provide voice communication service to persons who are in the custody of the commissioner and confined in a correctional facility. The commissioner may supplement such voice communication service with any other communication service, including, but not limited to, video communication and electronic mail services. Any such communication service shall be provided free of charge to such persons and any communication, whether initiated or received through any such service, shall be free of charge to the person initiating or receiving the communication.

(Continued)

¹³⁶ VACRO, *Submission 17*, p. 19.

BOX 7.3: Continued

The legislation also denotes that ‘the state shall not receive revenue for the provision of any communication service to any person in the custody of the commissioner and confined in a correctional facility.’ Speaking on the bill, House Majority Leader Jason Rojas said:

This bill corrects a regressive policy that senselessly indebts families and turns the revolving door of recidivism. As our state focuses on criminal justice reform, it could not be any more timely.

Source: Diane Lewis, ‘Leveraging lived experience to inform policies and support family’s connection during re-entry’, conference session delivered at 4th Annual Children of Incarcerated Parental National Conference United States, online, 30 March 2022; Worth Rises, *Connecticut makes history as first state to make prison calls free*, 2021, <<https://worthrises.org/pressreleases/connecticut-makes-history-as-first-state-to-make-prison-calls-free>> accessed 7 June 2022.

While the Committee understands that Corrections Victoria requires additional security measures for the Prisoner Telephone System, the cost of phone calls relative to earning capacity is hindering children’s ability to speak to their parents regularly and embedding feelings of guilt in children. The Committee urges the Victorian Government to investigate a free Prisoner Telephone System which allows parents to call and videocall their children free of cost.

Accessibility of phone calls

Beyond the cost of phone calls, stakeholders also noted the difficulties faced by time restrictions. As outlined in Table 7.2, most prisons in Victoria have an absolute maximum call time of 12 minutes, which children argued was not long enough for have a meaningful conversation with their parents.¹³⁷

When asked about the impact of time limits for phone calls, H noted that they ‘definitely’ felt the pressure:

Especially these days, because like I said, he has moved to a new prison and he is being paid less so has fewer long phone calls. But back in the day like I was really distressed and he helped me a lot with that, so he kept having to call me back to back ... It is just awful.¹³⁸

This was reiterated by Rachael Hambleton, who acknowledged having ‘a real thing around phone calls with prison’:

often they are 12-minute intervals. They often cost as much as what you might earn in a day in prison. So for people to maintain meaningful connections with people in prison, like, they call you at a certain time and maybe you get to talk to them for

¹³⁷ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 33.

¹³⁸ H, *Transcript of evidence*, p. 12.

12 minutes—and 24 minutes if you are lucky—in a week, and that really does not help with maintaining meaningful connections.¹³⁹

Where there were a number of children in the household, or where families were split across multiple households, phone contact can be even more difficult as each child may only have a few minutes to speak to their parent.

As discussed, several stakeholders spoke about the need for extended time limits for children speaking to their parents in order to allow meaningful connections between children and their parents. The Committee acknowledges that high costs and short time limits are restricting children from engaging meaningfully with their parents via phone. To ensure that children have the right and ability to engage meaningfully with their parents via phone, the Committee recommends making phone calls for people in prison free. The Committee also recommends that phone calls between parents and children are extended to at least 30 minutes per call. This recommendation is set out in Section 7.3.3.

FINDING 58: The cost of and time limits on prison phone calls restrict meaningful connections between children and their parents.

7.3.3 Correspondence

Children can also communicate with their parents in prison through written correspondence. The options and costs are outlined at Table 7.3.

Table 7.3 Methods and costs of written correspondence to people in prison

Method of communication	Cost	Timing
Mail (via Australia Post)	<ul style="list-style-type: none"> \$1.10 for a small letter up to 250g (may include photos) \$3.30 for a large letter up to 250g \$5.50 for a large letter up to 500g 	Standard postal turnaround times
Email (Email a Prisoner service)	<ul style="list-style-type: none"> \$0.95 to send an email \$0.75 to request a reply \$0.65 to attach a photo 	Within two business days
In-Cell instant messenger (only available at Ravenhall Correctional Centre)	Unspecified	Instant

Source: Australia Post, *Regular letters*, 2022, available at <<https://auspost.com.au/sending/send-within-australia/compare-letter-services/regular-letters-cards>> accessed 14 June 2022; Corrections Victoria, *Contacting and visiting prisoners*, 2022, available at <<https://www.corrections.vic.gov.au/prisons/contacting-and-visiting-prisoners#postal-mail>> accessed 14 June 2022; Larissa Strong, Commissioner, Corrections Victoria, Inquiry into children affected by parental incarceration hearings, response to questions on notice received 20 May 2022, p 2.

¹³⁹ Rachael Hambleton, Board Member, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 3.

For children, mail—electronic or postal—can be a different experience from visitation and phone calls. Family members can write and respond to letters flexibly and ‘edit their thoughts at their own pace’ or ‘think through what they want to say to each other.’¹⁴⁰ Letters may feel like they have less restrictions, may include drawings and stories, and be more substantive than phone calls. However, for very young children, letters and correspondence may not be possible.

While the Inquiry heard minimal evidence about the importance of written correspondence, research has indicated that mail and email is ‘important for positive changes in parent-child relationship quality’.¹⁴¹ In a proposal for a letter-writing workshop for children of incarcerated parents, Ciana Malchione, an American arts educator who experienced parental incarceration during her childhood, reflected on the letters between them and their father:

For years at a time, I knew my father *through* these letters, and it’s clear he put a lot of effort into them (some drawings are by him, some by other inmates). Although I don’t have the letters I sent him, I noticed that he asked me a lot of questions about day-to-day life in his letters (“Are you still in gymnastics? If so can you flip yet,” “How’s school? Is everything going ok? Are you getting good grades?”). As someone who was missing out on life’s mundane moments with me, I imagine those details were especially interesting to him.¹⁴²

Similar to phone calls, mail and emails are monitored by Corrections Victoria staff.¹⁴³ In some prisons, photocopies of letters and drawings are provided rather than the originals for safety protocols.¹⁴⁴ There is also a significant time delay with letters and emails that is not present with phone calls and visitation.

The Committee also heard about the introduction of In-Cell technology, a secure instant messaging service which allows people at Ravenhall Correctional Centre to send instant messages to their approved family and friends. The Committee was told that during COVID-19 lockdowns, people incarcerated at Ravenhall Correctional Centre were allowed unlimited messages to their family members almost instantly. However, according to the fathers that the Committee spoke to, this has now been restricted to one message and one response a day, and the technology is quite ‘clunky’ to use.¹⁴⁵

The Committee would like to see the In-Cell instant messaging technology improved and rolled out in more prisons throughout Victoria. The accessibility should also be increased from one message and one response per day. The possibility of instant

¹⁴⁰ Prison Fellowship, *Set up a letter-writing club*, (n.d.), <https://www.prisonfellowship.org/wp-content/uploads/2020/09/100078LWKSettingUpClup_Sept17_v04.pdf> accessed 14 June 2022, p. 1; Haverkate and Wright, ‘The differential effects of prison contact on parent-child relationship quality and child behavioural changes’, pp. 3–4.

¹⁴¹ Haverkate and Wright, ‘The differential effects of prison contact on parent-child relationship quality and child behavioural changes’, p. 23.

¹⁴² Ciana Malchione, *Ciana Malchione: Letter-writing workshop for children of incarcerated parents*, 2021, <<https://www.cianamalchione.com/post/letter-writing-workshop-for-children-of-incarcerated-parents>> accessed 14 June 2022.

¹⁴³ Corrections Victoria, *Contacting and visiting prisoners*.

¹⁴⁴ Victorian Aboriginal Legal Service, *Submission 40*, p. 39.

¹⁴⁵ Fathers incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

messaging technologies for older children and teenagers to communicate with their parents in a familiar and natural method may support positive interactions. It also gives children greater control about when and how they communicate with their parents.

FINDING 59: Written correspondence (letters, emails and In-Cell technology) can be an important method of communication for children to engage with their incarcerated parents. Written correspondence allows both children and parents to write at a time that suits them, and allows both parties to think through what they would like to say.

RECOMMENDATION 21: That the Victorian Government work to improve In-Cell technology with the aim of rolling it out across more prisons in Victoria, where appropriate. In-Cell instant messaging should be made available for free beyond one message and one response per day.

The Committee believes that accessible contact between children and parents is essential for families to facilitate meaningful contact and develop positive relationships. However, children often face difficulties trying to contact their parents due to unfriendly environment, rigid schedules, costs, or the inability to initiate contact. The Committee believes that opportunities to engage should be accessible and frequent by default.

RECOMMENDATION 22: That, in recognition of the child's right to maintain parental contact, regular opportunities for meaningful contact are available to children with parents in prison. This includes:

- not revoking visitation as a punitive measure
- where possible, ensuring that parents are in a facility close to their family
- facilitating regular face-to-face visits, supplemented with phone calls and video conferencing
 - phone calls should be made free to all people incarcerated
 - phone calls between parents and children should have extended time limits
 - phone calls between parents and children should not be recorded, unless it is deemed necessary for security or safety reasons
 - provisions for live chat functions across all Victorian prisons should be explored.

8 Supports in Victoria for children affected by parental incarceration

8.1 Solutions, interventions and supports to maintain family contact

In Victoria, there are a range of channels which allow families to connect throughout a prison stay. However, as noted in Chapter 6, consistent issues arise because children are not considered a key demographic in the design of systems. Their needs are typically not identified or are left unmet, which can increase trauma and exacerbate adverse wellbeing outcomes.

To mitigate the impacts of parental incarceration on children, support and intervention is required to help children cope through such a difficult situation. Support and interventions may be based in prisons or in the community. They may also target children, families, or be aimed at the parent in prison to increase their parenting capacity.

The Committee found that interventions and support should focus on:

- enhancing and improving the quality of contact between children and their incarcerated parent
- supporting children through their parent’s incarceration and re-entry into the community
- providing information and training to parents to build parenting capacity.¹

Solutions, interventions and support should be based on the priorities and guiding principles identified in the stakeholder workshop and endorsed by the Committee.²

This Chapter explores therapeutic interventions which can help mitigate the impacts of parental incarceration (Chapter 2). It outlines existing services available in Victoria that facilitate more meaningful connection for families affected by parental incarceration—including services outside of prison, and those available within. Finally, it outlines opportunities to build sector capability by providing sustainable funding, building capacity and improving workforce retention.

1 Adele D. Jones, et al, *Children of prisoners: Interventions and mitigations to strengthen mental health*, report for Children of Prisoners Europe, University of Huddersfield, online, 2013, pp. 77-78.

2 See Appendix D, Stakeholder roundtable discussion and outcomes

8.1.1 A coordinated single-entry point

As noted in Chapter 4, there is no government department tasked with supporting children affected by parental incarceration. As such, there is no system-wide approach to provide holistic care for these children and their families. Instead, the Committee heard that the existing supports and interventions available for children in Victoria are ad-hoc and driven by the community support sector.

While the Committee acknowledges that there are a number of effective supports available, it reiterates that a new agency or work group should be established to function as a single point of entry to engage with all service providers in this area. The Committee believes that the services discussed in the following sections—existing and proposed—should work with the new coordinating body to case plan, coordinate referrals and ensure that all appropriate services are available for children in need.

Evaluative research has indicated that a therapeutic care team for children and families impacted by incarceration can successfully facilitate the consistent holistic support required to maintain and strengthen family relationships.³ A care team would incorporate:

- a case worker or representative from the new agency
- parents
- carers
- welfare workers
- health professionals
- schools, and
- the Department of Families, Fairness and Housing (where applicable).

A care team should be multifaceted, communicative, and coordinated across the community and prison-based supports listed in the following sections.

RECOMMENDATION 23: That the new agency/work unit in Recommendation 3 act as a coordination point with adult and family services—such as Corrections Victoria, Department of Justice and Community Safety and the Department of Families, Fairness and Housing—and a referral point to child-centric, trauma-informed services, including:

- individual therapy
- family counselling
- youth mentoring
- healthcare (including dental)
- other necessary services.

³ VACRO, *Submission 17*, p. 19.

8.1.2 The importance of through care

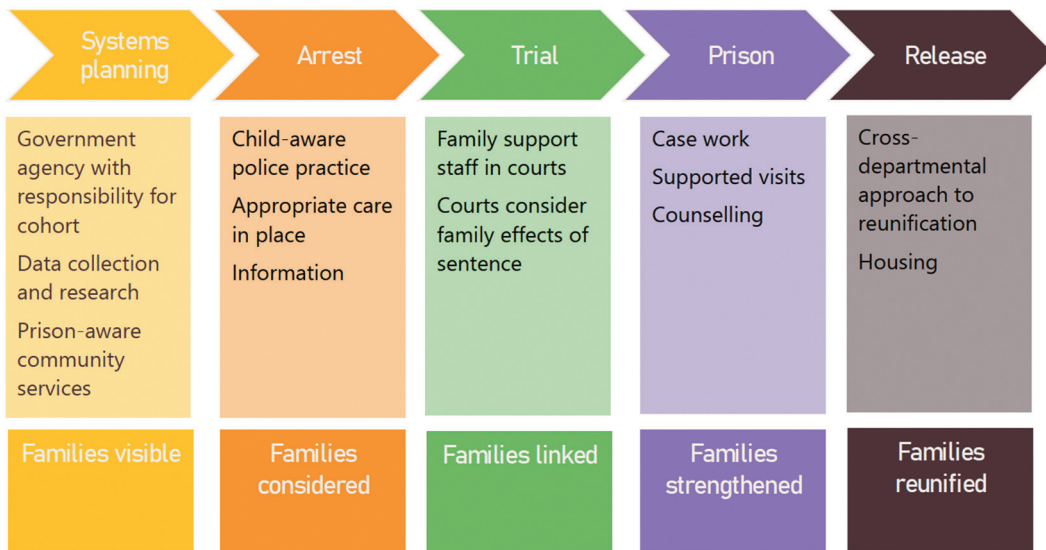
But we talk about ... the concept of ‘through care’, and we talk about it as a community service provider: the need for a continuum of service, from inside the prison back into the community. And it is challenging in Victoria, where you have got prisons all over the state and people living all over the state post release, but that is the standard you need to get to.

Marius Smith, Chief Executive Officer, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 54.

Throughcare refers to continuous wraparound support starting at the point of contact with the justice system and extending past the point of reunification. Throughcare can prevent families falling through the cracks and being unable to access support systems. Further, throughcare can ensure that learnings in programs or interventions—such as parenting classes or therapy—can be implemented safely post-release.

While individual service providers do offer throughcare to people who have entered prison and their families, the Committee heard about the need to embed a throughcare model across the entire support system for families affected by parental incarceration. VACRO provided a proposed model of a throughcare system, which is set out at Figure 8.1.

Figure 8.1 VACRO proposed throughcare model



Source: VACRO, *Submission 17*, p. 5.

The Committee has received positive evidence from VACRO, Jesuit Social Services, Professor Susan Dennison, Community Restorative Centre New South Wales and OARS Community Transitions about the impact of throughcare models.⁴ These models have the capacity to improve outcomes for prison leavers, support reunification with families and reduce the occurrence of recidivism.⁵ As such, the Committee believes that a throughcare model of care should be the ultimate aim of any new work unit or agency within the Department of Families, Fairness and Housing.

FINDING 60: Throughcare models of care are best practice to ensure wraparound support is provided to people in prison and their families. Throughcare models can support family relationships during incarceration, support pre-release planning and assist people to transition back into the community.

The Committee recognises that the development of a throughcare model in Victoria will require more resources than currently available in the sector. As such, the Committee has not made recommendations about implementing a throughcare model immediately, but it has discussed workforce and capacity-building at Section 8.3.

8.1.3 Therapeutic interventions for children and families affected by incarceration

I needed someone to talk to, but there was no one there.

Keira, 13 years old, via Dr Catherine Flynn, Senior Lecturer, Director, Higher Degrees by Research Program and Deputy Head of Department, Department of Social Work, Monash University, *Submission 27*, p. 14.

Children who experience parental incarceration have a greater risk of a number of adverse emotional, social and health outcomes compared to their peers (see Chapter 2). However, the detrimental effects of parental incarceration can be mitigated or avoided by providing informed and accessible therapeutic interventions.

The Committee heard about a number of positive initiatives and available supports outside of prison that children can access. Despite this, many children and families reported that they consistently did not receive support, or even know that it was available. To recognise the experiences of people who were left on their own, the Committee has included some of these experiences below.

4 See Melanie Field-Pimm, Development Manager, VACRO, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 52; VACRO, *Submission 17*, pp. 22–23; Jesuit Social Services, *Submission 35*, p. 17; Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 30; Community Restorative Centre, *Submission 20*, pp. 1–2, 7; Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 2.

5 Melanie Field-Pimm, *Transcript of evidence*, p. 52; VACRO, *Submission 17*, pp. 22–23; Jesuit Social Services, *Submission 35*, p. 17; Professor Susan Dennison, *Transcript of evidence*, p. 30; Community Restorative Centre, *Submission 20*, pp. 1–2, 7; Leigh Garrett, *Transcript of evidence*, p. 2.

I am relatively lucky that my mum was able to support us and still get us through school and stuff, but it is just more so my mental health as a child. This was something deeply traumatic, and no-one offered any kind of assistance to me specifically.

H, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 14.

There were supports—mental health services and stuff—when I was a teenager, but not when I was a child that I really remember.

I did not know SHINE existed until the last sort of year, but I think they have been around for quite a while

Rachael Hambleton, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, pp. 2, 16.

I was devastated to learn about the 40 year anniversary for Shine for Kids, for example, as I have lived my entire childhood and teenage years completely unaware that such support was available to me.

Name withheld, *Submission 18*, p. 2.

I spend a lot of time looking at everyone else and going “Is that how normal is?” I really wanted to see a psychologist, to have someone to talk to, but I didn’t know how to do this.

Dan, via Dr Catherine Flynn, *Submission 27*, p. 14.

I’m always going to remember what happened, that feeling of being on my own.

Harry, via Dr Catherine Flynn, *Submission 27*, p. 14.

As noted in Chapter 4, the lack of outreach initiatives or a coordinating body for children impacted by parental incarceration can make it difficult for families to know about and access available supports. Aunty Muriel Bamblett AO, Chief Executive Officer at VACCA, told the Committee about the importance of asking children about the support that they need:

When we do not ask the question, it is harder to provide the right therapeutic supports. If we do not have the programs that reach out and support the affected children and support the remaining parent or carer, we are, I believe, failing our children.⁶

⁶ Adjunct Professor Aunty Muriel Bamblett, Chief Executive Officer, VACCA, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 20.

When asked about what supports and interventions were needed for children affected by parental incarceration, children and families provided the following responses:

- someone to talk to⁷
- immediate and ongoing mental health support⁸
- a family worker or counsellor available at the point of arrest or straight after⁹
- trauma-informed professionals (including teachers)¹⁰
- mediators or support workers for visitation if parents and family members don't get along¹¹
- information about their parent's situation and prison¹²
- help getting to prisons for visitation particularly if the prison is far away.¹³

When the Committee examined current supports and therapeutic interventions for children affected by parental incarceration, it found clear evidence of existing organisations working to support children of incarcerated parents in Victoria in three main categories:

- individual therapy/counselling
- family or group therapy/counselling
- youth mentoring.

This Section outlines the benefits of these supports for children and points to some existing services available in Victoria. The Committee would also like to reiterate the need for holistic family support and intervention—while these therapeutic supports can work individually for children affected by parental incarceration, holistic support is the best practice for the family unit to work towards positive outcomes for all members.

7 Chloe and Kiera, via Dr Catherine Flynn, Senior Lecturer, Director of Higher Degree Research and Deputy Head of Department, Department of Social Work, Monash University, *Submission 27*, p. 14.

8 H, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 14; Rachael Hambleton, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 15.

9 Name Withheld, A father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

10 Rachael Hambleton, *Transcript of evidence*, p. 15; Leigh Pappos, closed hearing, Melbourne, 25 May 2022, *Transcript of evidence*, p. 16; Holly Nicholls, public hearing, via Zoom, 9 May 2022, *Transcript of evidence*, p. 16; William, a father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

11 Nick, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

12 Sean, via Dr Catherine Flynn, *Submission 27*, p. 14.

13 Sam, a mother incarcerated at Dame Phyllis Frost Centre, *Committee site visit*, supplementary evidence received 20 April 2022; Brendan, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022; Harry, via Dr Catherine Flynn, *Submission 27*, p. 14.

Individual therapy/counselling and mental health support

Children bear the impact of and punishment for a parent’s crime through the removal of their caregiver. They are entitled to trauma-informed therapeutic supports similar to those provided to victims of crime to process their grief and parental separation and to mitigate adverse outcomes.

Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 4.

Individual counselling or therapy has been identified as an effective intervention for children affected by parental incarceration.¹⁴ It can provide children a safe space to work through their complex emotions. Trauma-informed counselling and therapy can help children:

- understand their behaviours and reactions
- address any mental health concerns or personality disorders associated with trauma
- develop positive coping mechanisms
- address detrimental learned behaviours.

Further, counselling and therapy can be a life-long support for adults who were affected by parental incarceration during their childhood. Rachael Hambleton, whose father was incarcerated throughout her childhood, told the Committee about the role of therapy in her life:

I did have therapy throughout my teenage years that was very helpful. It meant that it became a norm for me. I prioritised paying for that once it all fell through, and I have continued to. I would probably spend a good \$7000 or \$8000 a year on therapy—because I get my 10 subsidised sessions, but when you have fairly extensive trauma, I just do not know who I would be without doing that.¹⁵

Many stakeholders supported the provision of counselling or therapy for children affected by parental incarceration.¹⁶ Stakeholders recommended that therapists or counsellors be made available to children impacted by parental incarceration at all stages of the carceral process, including arrest, incarceration, visitation and post-release. However, as noted by Rachael Hambleton, the cost of therapy can often place a large financial burden on families.

The Committee also heard that in some cases, children were reluctant to share their parent’s situation with a practitioner as they had learned to keep quiet about the impacts.¹⁷ One submitter spoke about the difficulties sharing their experiences with a professional, which impacted their ability to seek help.

¹⁴ Stephanie Heinecke Thulstrup and Leena Eklund Karlsson, ‘Children of imprisoned parents and their coping strategies: a systematic review’, *Societies*, vol. 7, no. 2, 2017.

¹⁵ Rachael Hambleton, *Transcript of evidence*, p. 2.

¹⁶ See for example Centre for Excellence in Child and Family Welfare, *Submission 30*, p. 4; Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 14.

¹⁷ H, *Transcript of evidence*, p. 11.

I have not been able to discuss anything to do with the case, incarceration, or how it impacts me to any mental health professional (or anyone besides family, for that matter). As no one explained to me what was going on, it has always been drilled into me that in order to protect my family, it needs to be kept a secret. Every time I am asked about my father, I am not able to speak and I instinctively make any attempt available to divert or escape the conversation. I become 'triggered' and experience severe anxiety if anything even mildly adjacent to the case or even incarceration is mentioned.

When I was fifteen, I had a psychologist who did keep asking about my father, wondering why I never mentioned him. This psychologist recommended that I see a psychiatrist, the first one I ever saw. My mother attended this session, and she did mention the incarceration to the psychiatrist. Notes were taken and given to my psychologist, but she never mentioned my father in any way ever again.

Name withheld, *Submission 18*, pp. 1–2.

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Name withheld, *Submission 18*, pp. 1–2.

The submitter recommended the creation of training resources for mental health professionals to ensure that practitioners are able to effectively treat children of incarcerated parents in a trauma-informed way. The importance of trauma-informed therapy was also reiterated by other lived experience participants.¹⁸

FINDING 61: Individual therapy or counselling provided by trauma-informed practitioners can support children exposed to parental incarceration by:

- providing a safe space to navigate complex emotions
- addressing harmful coping mechanisms and developing positive coping mechanisms
- addressing any mental health concerns.

¹⁸ Rachael Hambleton, *Transcript of evidence*, pp. 15–16; H, *Transcript of evidence*, p. 15; Leigh Pappos, *Transcript of evidence*, p. 16.

Family or group therapy/counselling

In Victoria, there are two specialist organisations that provide family counselling to families affected by incarceration: VACRO and VACCA. VACRO provides specialist counselling for families affected by incarceration. It operates two programs:

- Supporting Kids and Families program (Beechworth Correctional Centre)
- Parents and Families Engagement program (Judy Lazarus Transition Centre and Tarrengower Prison).¹⁹

Supporting Kids and Families is a ‘child-centred, trauma-informed and family violence aware’ program which works to ensure the best outcomes for children during reintegration following incarceration. It does this through family meetings, group and individual therapy, and facilitated time between children and parents.²⁰ The program also focuses on managing the ‘new pressures on families’ dealing with a parent being released from prison. A testimonial from a client, Joel (pseudonym) is outlined at Box 8.1.

BOX 8.1: Joel’s story—VACRO Family Counselling

Joel was a hands-on dad to his beloved little girl, Millie.

Millie’s mum worked full-time, so when their daughter was small, Joel was a stay-at-home-father, spending his time feeding, sleeping and playing with Millie. But things grew difficult between Joel and his partner, and they separated bitterly, just before he was incarcerated.

Their strained relationship and his imprisonment led to only sporadic connection between Joel and his daughter for the next six years. He grieved the loss of his identity as a father and partner.

He started seeing VACRO’s family counsellor, who helped him learn more about himself. When the time was right, the counsellor approached Joel’s ex-partner, who said she would support more regular contact between Joel and Millie if both parents could learn to communicate better. Our counsellor suggested a child-focused family session, including the whole family.

In the session, Millie was able to express her fears, and hear reassurance from both of her parents. After the session, Millie and Joel started speaking regularly on the phone. Joel and Millie’s mum, meanwhile, agreed to continue sessions with VACRO’s family counsellor after his release, to make sure they were working together as best they could to strengthen the bond between Joel and his daughter.

Source: VACRO, *Supporting kids and families*, 2022, <<https://www.vacro.org.au/supporting-kids-and-families>> accessed 14 June 2022.

¹⁹ VACRO, *Submission 17*, p. 5.

²⁰ VACRO, *Supporting kids and families*, 2022, <<https://www.vacro.org.au/supporting-kids-and-families>> accessed 14 June 2022.

Like Supporting Kids and Families, the Parents and Families Engagement program uses a combination of child-focused individual therapy and family counselling. However, the multi-modal program has additional elements, including couples therapy, parent education and school holiday programs. This aims to strengthen family relationships during incarceration and move to a reintegration focus leading up to, and following, release.²¹

VACCA runs culturally safe, trauma-informed family counselling, however its submission notes that there is currently a funding gap for Aboriginal children and parents pre- and post-release (see Section 8.3 for a discussion about increasing workforce capacity).²²

The importance of opportunities for family counselling throughout incarceration was emphasised by a number of stakeholders.²³ They recommended that family counselling should be an essential part of throughcare for a longer period of time following release ‘to help people recognise that the transition can be quite difficult.’²⁴ Professor Nancy Loucks OBE, Chief Executive Officer of Families Outside and Chair of the International Coalition for Children of Incarcerated Parents, told the Committee that continued support is required beyond initial release:

What we do get is families assuming—mistakenly, quite a lot—that once someone is out of prison everything is going to be fine [but] the whole family dynamic will have shifted quite considerably, so they will need that support.²⁵

Jesuit Social Services’ submission to the Inquiry reiterated the importance of ongoing family-based restorative therapy for parent-child relationships, particularly after long periods of incarceration:

In our experience, we have seen that periods of incarceration, whether short or long, have significant impacts on the family. For parents who are leaving custody but have been incarcerated for a long time, often the relationships with their child and family are fractured and require additional intensive support to reconnect as well as implement the parenting strategies learnt in prison. For some families, relationships can be significantly strained due to harm done by a parent’s offending and require additional supports to heal and reconnect.²⁶

The Committee accepts that family counselling and therapies can be an important mechanism to rebuild and improve relationships during incarceration. They can also serve to prepare families for reunification post-release and can help manage shifting familial dynamics. The Committee believes that family therapy programs are important

21 VACRO, *Parents and Families Program*, 2022, <<https://www.vacro.org.au/parents-and-families-program>> accessed 14 June 2022.

22 VACCA, *Submission 29*, pp. 12, 14.

23 See for example *Ibid.*, p. 10; Professor Nancy Loucks, Chief Executive Officer, Families Outside and Chair, International Coalition for Children with Incarcerated Parents, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 4.

24 Professor Nancy Loucks, *Transcript of evidence*, p. 5.

25 *Ibid.*

26 Jesuit Social Services, *Submission 35*, p. 18.

for families preparing for reunification. As such, the Committee would like to see additional capacity for family therapy extended post-release. The recommendations for post-release services are made in Section 8.2.2.

FINDING 62: Family therapy programs can be an important mechanism to improve and support healthy relationships during incarceration. Programs are particularly important pre- and post-release, when they can help families navigating shifting dynamics.

Youth mentoring

Now that SHINE for Kids is on board and helping with regular AVLs and provides a volunteer mentor to support the kids, Logan and Rebecca look forward to their special time with their mentor, learning, engaging and doing letters/drawings for dad (and mum). They both have a very clear understanding that when lockdown restrictions ease their mentor is planning on taking the children in for an in-person contact visit with dad. For now Mum stated they are doing so much better and the kids really enjoy the online mentoring sessions with the volunteer but can't wait to see dad.

SHINE for Kids, *Submission 19*, p. 34.

Youth mentoring was identified by stakeholders as a way to provide positive stable relationships to children affected by disadvantage.²⁷ For children affected by parental incarceration, mentoring can help mitigate impacts and increase:

- emotional wellbeing
- the health of social relationships
- the rejection of destructive or problematic behaviours
- academic performance.²⁸

It can also work towards preventing intergenerational offending by providing positive role models to counter pressures to engage in destructive behaviours.²⁹

The Committee heard about a number of youth mentoring programs across Australia and New Zealand available to children impacted by parental incarceration. These programs are set out at Table 8.1.

²⁷ Glen Fairweather, General Manager, Prison Fellowship Australia, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 12.

²⁸ G Roger Jarjoura, et al., *Mentoring children of incarcerated parents: a synthesis of research and input from the listening session held by the Office of Juvenile Justice and Delinquency Prevention and the White House Domestic Policy Council and Office of Public Engagement*, research paper, U.S Department of Justice, Washington DC, 2011, p. 4.

²⁹ Richard Boonstra, Victorian State Manager, Prison Fellowship Australia, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 12.

Table 8.1 Examples of youth mentoring programs for children impacted by parental incarceration

Prison Fellowship Australia Extraordinary Lives	This program delivers a range of services to interrupt intergenerational cycles of crime. The one-on-one mentoring connects children to a long-term local mentor to guide, encourage and support them to more positively connect with their families, schools and local communities. Mentors help counteract negative pressures towards unhealthy relationships, drugs and alcohol.
Prison Fellowship Australia Camp for Kids	Children of incarcerated parents participate in a camp to meet peers and mentors who have lived experience of parental incarceration. The camp aims to promote positive long-term mentoring relationships.
SHINE for Kids Ride by Your Side Transport	Ride by Your Side connects children to mentors who can transport and accompanying children to visit their parents in prison.
SHINE for Kids and the University of Western Sydney RISE education and mentoring program	Teachers are provided with training to best support children with a parent in prison. The program also provides primary school children with an incarcerated parent with tailored, one-on-one mentoring in the classroom. Mentors support children academically, socially and culturally. RISE currently operates in Frankston and Brimbank.
Pillars mentoring programme	This programme supports children and young people in New Zealand aged five to 17 whose parent or caregiver has gone to prison. Mentors and children meet once a fortnight for at least a year.

Source: Prison Fellowship Australia, *Extraordinary lives*, <<https://prisonfellowship.org.au/programs/extraordinary-lives>> accessed 14 June 2022; Richard Boonstra, Victoria State Manager, Prison Fellowship Australia, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 13; SHINE for Kids, *Submission 15*, p. 20; SHINE for Kids, *Submission 15 Attachment 1*, p. 52; Pillars, *Become a mentor*, 2022, <<https://www.pillars.org.nz/become-a-mentor>> accessed 14 June 2022.

Glen Fairweather, General Manager of Prison Fellowship Australia, told the Committee about how significant mentoring could be for children as it provided a consistent influence and allowed mentors and children to ‘work more intensely over a longer period of time’:

because this is a day in, day out thing for them, and so to provide a consistent adult for them who is able to walk a longer journey and help them make more positive life decisions.³⁰

The Committee also heard from Holly Nichols, who participated in Prison Fellowship Australia’s mentor programs. Holly credited Prison Fellowship Australia for changing the trajectory of her life, and told the Committee that the organisation ‘showed [her] what normal looked like.’³¹

Glen Fairweather reflected on Holly’s journey to the Committee, and spoke about the potential impact of more mentor relationships such as the one Holly experienced:

It is an amazing credit to Holly. She had some mentors through Prison Fellowship in her life, but the way that she has been able to go down a path of education and find herself now as a practising youth worker and social worker is just incredible.³²

³⁰ Glen Fairweather, *Transcript of evidence*, p. 21.

³¹ Holly Nicholls, *Transcript of evidence*, p. 14.

³² Glen Fairweather, *Transcript of evidence*, p. 21.

Glen noted that many more children could benefit if they were exposed to stable long-term relationships with mentors and support workers. This is discussed further at Section 8.3.2.

Parents also indicated that their children would benefit from mentors or mediators to ‘support the child at critical times, and to also support communication between the child or children and their parent.’³³

In New Zealand, Pillars runs a mentoring program which is seen as transformational to the lives of children affected by parental incarceration. Corrina Thompson, Senior Mentoring Coordinator at Pillars told the Committee:

Mentors are passionate, positive role models, ‘askable adults’ for children. The child and adult teach and learn from each other. This is someone for the child to engage with, to build trust with.³⁴

In the Pillars program journals are given to children to use every time the mentor and young person get together. The journal forms a narrative-based analysis of the mentoring process and are an important resource for Pillars to use in evaluating its mentoring program.

Maxine Gay, General Manager at Pillars, described the mentoring programme as their ‘highest risk activity’:

Mentoring is our highest risk activity. We are asking families to trust their child with an adult that they don’t know.³⁵

The mentoring program is rigorous and based on a risk and safety approach. For candidates it involves police checks, interviews, training, a monthly supervision session and a minimum commitment of one year. One out of ten of those who apply to be mentors for Pillars are chosen for the role.

While the Committee did not hear evidence about cultural mentoring specific to children impacted by parental incarceration, it did receive information about the Clean Slate Without Prejudice Program, which employs Aboriginal and Torres Strait Islander mentors to support young people in the community and reduce their risk of turning to crime. This program is outlined at Box 8.2.

³³ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 44.

³⁴ Corrina Thompson, Senior Mentoring Coordinator, Pillars, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Auckland, New Zealand, 1 June 2022.

³⁵ Maxine Gay, General Manager, Pillars, *Meeting with New Zealand delegation of the Legislative Council, Legal and Social Issues Committee*, Auckland, New Zealand, 1 June 2022.

BOX 8.2: The Clean Slate Without Prejudice Program

The Redfern Clean Slate Without Prejudice Program started in 2009 as a partnership between NSW Police and the Tribal Warrior Association. The aim was to address high crime rates in Redfern and improve relationships between police and Aboriginal and Torres Strait Islander young people.

The program is a 'grassroots community, holistic exercise, assistance and referral program'. Participants undertake boxing training three mornings per week and are offered assistance with accommodation, employment and training. Police officers and Aboriginal leaders train with the young people.

Young people are referred by schools, social services, courts or the police. Participation in the program can form part of a suspended sentence and young people in prison can now participate.

It has been reported that between 2008 and 2014 robberies in the area dropped by 73 per cent, assaults on police dropped by 57 per cent and break-and-enters nearly halved.

Source: Change the Record, *Submission 26, Attachment 1*, p. 34.

The Committee received limited information about the elements of successful mentoring relationships. As such, the Committee believes that programs such as those conducted by Prison Fellowship Australia and SHINE for Kids should be funded long-term to allow for evaluation and improvement, so that mentoring programs can be rolled out across Victoria.

FINDING 63: Youth mentoring programs can help to reduce the negative social and emotional impacts of parental incarceration. Programs can help by providing positive role models and demonstrating positive behaviours.

The Committee believes that therapeutic supports—such as individual counselling and therapy, family counselling and therapy, and youth mentoring—can play a significant role in supporting positive mental health for children affected by parental incarceration. These supports should be linked in with the proposed work unit in the Department of Families, Fairness and Housing to allow families to engage with a single contact to arrange each of the supports.

The Committee recognises that at present, existing supports do not have sufficient capacity to support all children affected by parental incarceration. As such, the Committee has recommended that the Victorian Government increase funding to existing non-government organisations to allow them to increase their service provision commensurate with the need in the community.

RECOMMENDATION 24: That the Victorian Government make ongoing individual therapy, family counselling and youth mentoring programs available and accessible to all children and families from the point of incarceration including provision for adults who were affected by parental incarceration as children to receive financial support for therapy. Organisations who provide these services should be linked into the proposed new work unit (Recommendation 3) to ensure that referrals to services can be made from a single contact point.

RECOMMENDATION 25: That the Victorian Government provide sustainable ongoing funding to existing family counselling programs and youth mentoring programs to ensure capacity is commensurate with the need in the community. These programs should have regular evaluations to ensure that they are meeting the needs of participants.

8.1.4 Existing in-prison supports and interventions in Victoria

In addition to therapeutic interventions outside of prison, there are a range of in-prison programs available to support families impacted by parental incarceration—though many of these focus on working with the parent in prison rather than the child. These programs are facilitated by Corrections Victoria, which typically relies on contracted external service providers. Programs may focus on:

- therapeutic intervention for parents
- supported play and enhanced visitation
- education.

The following sections discuss the benefits of supported play, enhanced visitation and education, and outline the organisations providing these services. Table 8.2 below outlines the family engagement supports available in Victorian prisons, and the organisations providing the service.

Table 8.2 Family engagement supports in Victorian prisons

Program	Description	Delivered by	Available at
The Family Engagement Service	<p>The Family Engagement Service plays a crucial role in assisting parent/ carers at the Dame Phyllis Frost Centre and Tarrengower Prison. The service provides support to women in prison to develop strong familial links/support and increases opportunities to strengthen social capital.</p> <p>The Family Engagement Service includes:</p> <ul style="list-style-type: none"> • Family Engagement Workers (below) • Strengthening Connections Family Therapy Service (below). <p>The Bouverie Centre's service model includes an integrated research approach that delivers and assesses the effectiveness of three levels of prisoner family involvement. The levels are a direct response to the woman in prison's level of need:</p> <ul style="list-style-type: none"> • Level one (low needs)—includes mapping and identifying healthy and unhealthy relationships • Level two (moderate needs)—targeted single session therapy with a clinical and family consultation • Level three (high needs)—clinical intensive family therapy. 	The Bouverie Centre, La Trobe University (run as a pilot since 2020)	Dame Phyllis Frost Centre, Tarrengower Prison
Family Engagement Workers	The Bouverie Centre provide training to the Family Engagement Workers, as well as relevant staff and stakeholders to develop consistent work practices that utilise the most recent gender specific and trauma informed approaches to family engagement. Women in prison with complex or clinical needs that cannot be addressed by the services offered by the Family Engagement Workers may be referred to Strengthening Connections for support.	The Bouverie Centre, La Trobe University (run as a pilot since 2020)	Dame Phyllis Frost Centre, Tarrengower Prison
Strengthening Connections Family Therapy Service	Strengthening Connections focuses on the critical role that maintaining or re-establishing connection with children and family has in supporting parents and carers in their rehabilitation. The Bouverie Centre's action research model provides a flexible and adaptive service that responds to the needs of women in prison and their families.	The Bouverie Centre, La Trobe University (run as a pilot since 2020)	Dame Phyllis Frost Centre, Tarrengower Prison
Maternal Child Health Nurse	This program provides an outreach service, led and primarily delivered by Maternal and Child Health nurses. It is focused on achieving improved outcomes for infants, children, mothers and their families who are experiencing a period of increased need, and who could benefit from targeted actions and interventions.	Maternal and Child Health	Dame Phyllis Frost Centre, Tarrengower Prison

Program	Description	Delivered by	Available at
Parent and Family	The Parent and Family Program (PaF) seeks to improve family connectedness through trauma-informed practice that aims to empower parents to make positive changes and potentially change the outcomes for their children. PaF includes various activities for people in prison who are parents or carers and involves children, young people, partners, caregivers and extended family members. Should family contact be deemed inappropriate, PaF can provide individual support sessions to the incarcerated parent.	VACRO	Judy Lazarus Transition Centre, Tarrengower Prison
Inside Access	The Inside Access service includes weekly in-reach support for ancillary legal matters and legal education sessions to women at DPFC and Tarrengower Prison. Inside Access provides support to women navigating various family legal issues including matters involving DFFH Child Protection.	The Mental Health Legal Service	Dame Phyllis Frost Centre, Tarrengower Prison
Prison In-Visits	The Prison In-Visits Program provides purposeful, positive, engaging diversionary activities for children visiting a parent in prison. Program staff and volunteers facilitate unstructured arts and craft activities to provide men in prison with a way to engage with their children in an informal manner. Children and men in prison participate in the activities together and are provided with non-intrusive support to ensure that their participation is fun and positive.	SHINE for Kids	Barwon Prison, Metropolitan Remand Centre, Marngoneet Correctional Centre
Supported Children's Transport	The Supported Children's Transport Program assists children who would otherwise be unable to visit their parent in custody due to transportation or related issues.	SHINE for Kids	Barwon Prison, Dame Phyllis Frost Centre, Metropolitan Remand Centre, Marngoneet Correctional Centre
Prison visit support	Volunteers provide support for friends and families visiting Port Phillip Prison before, during and after their visit time with loved ones. In a waiting area located externally to the prison, volunteers run the Visitor Support Centre, which is designed to provide non-specialist practical and emotional support to families and friends. Volunteers also operate a child focused program inside the prison visitor centre. They create a safe and supportive environment for children and their families and facilitate a range of fun family activities. The program aims to create a more enjoyable environment for visitors and their loved ones and contributes to the maintenance and strengthening of family bonds.	Red Cross Australia	Port Phillip Prison
Read Along Dads / Read Along Mums	The Read Along Dads / Mums Program assists people in prison to stay in touch with their children in a meaningful way. Participants are recorded reading a book for their child, which is later sent to the child along with a copy of the book. The child can then listen to their parent's voice and read along, helping to maintain the family connection. Additional benefits include improving people in prison's literacy levels and engagement in writing and craft activities.	Initiated by Friends of the Castlemaine Library	Loddon Prison, Middleton Prison, Tarrengower Prison, Port Phillip Prison

Program	Description	Delivered by	Available at
Family Visits	The Family Visits Program provides women access to supported visits with their families in addition to regular visitation. Both the incarcerated women and their families will be supported by the Family Visits Worker throughout their program engagement. The key purpose of the Family Visits Worker will be to cultivate positive, pro-social relationships in order to improve reintegration outcomes post-release. The Family Visits program will work with the newly implemented Family Engagement Service at the Dame Phyllis Frost Centre and Tarrengower Prison. This coordination will include working with the Family Therapy Services to implement parenting and family engagement strategies recommended by the therapists in real time. VACRO will also support women and families by undertaking critical contact with DFFH Child Protection to support and coordinate family engagement/reunification.	VACRO	Dame Phyllis Frost Centre, Tarrengower Prison
Angel Tree	The Angel Tree program allows men in prison to nominate children to receive a Christmas gift. Prison Fellowship then calls on supporters and friends to donate gifts, or money to buy Christmas gifts. These are then delivered to the homes of the children or given out at a prison Christmas party.	Prison Fellowship	Port Phillip Prison
Small Talk – Supported Play Group	Small Talk is a supported playgroup run for two hours per week. The program aims to support the development and wellbeing of both children and parents and assist them during their interactions.	Maternal and Child Health	Tarrengower Prison
Fun with Mum	The Fun with Mum program provides purposeful, positive, engaging diversionary activities for children visiting a parent in prison in an informal, non-intrusive supportive manner to ensure that the visit and interaction is fun and positive. Transport assistance for children who would otherwise be unable to visit their parent in custody is provided.	Prison Network	Dame Phyllis Frost Centre, Tarrengower Prison
Family Connect	Support is provided to assist the men to improve family relationships, both through maintaining contact and reengaging with family members. Assistance is provided to build communication skills to increase connections and confidence to maintain family relationships. The service provides but is not restricted to the following assistance: <ul style="list-style-type: none"> to maintain contact with family members via phone, writing letters or supported visits connect family members with services and support facilitate family conferences (where appropriate) include the family member (where appropriate) in case plan meetings in preparation for release. 	Family Liaison Officers	Ravenhall

Program	Description	Delivered by	Available at
Just for Dads	This program is facilitated and coordinated by the Family Team to assist fathers / carers to engage positively with their children during visits. The program is run in the Visits Centre where themed activities are arranged and facilitated to enable engagement and improve the quality of the visit for the children.	Family Liaison Officers	Ravenhall

Source: compiled by the Legal and Social Issues Committee from Department of Justice and Community Safety, *Family engagement and parenting: programs and services guide*, <<https://files.corrections.vic.gov.au/2022-02/Family%20Engagement%20Programs%20and%20Services%20Guide.pdf>> accessed 13 April 2022, pp 12–16, and SHINE for Kids, *Programs*, <<https://shineforkids.org.au/programs/supported-transport>> accessed 14 April 2022.

In addition to the services provided or contracted by Corrections Victoria, there are also a number of non-government organisations who provide out-of-prison support for children and families affected by parental incarceration. More information about these organisations is available at Chapter 1.

8.1.5 Supported play and enhanced visitation

There were also child visit activities run by Prison Network every second Sunday, including crafts, games and other bonding experiences. On two other occasions they arranged petting zoos at the visit centre. My son often mentions that as his favourite day. These activities gave us opportunities to break down the barriers and the ability to focus on something together as relaxed mothers and their children. I will always be grateful for those days and Prison Network.

A mother incarcerated in Tarrengower Prison via Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 36.

As outlined in Chapters 2 and 7, face-to-face visits can be difficult for kids and parents due to the length of the visit or the lack of fun or interesting activities for children. Further, for some parents who have not had the opportunity to bond with their children, there may be a level of insecurity about how to play and engage with their child. Supported play, which is assisted by trained facilitators or early childhood workers, can help alleviate the pressure on both children and parents and can assist in making sure that visits are positive and meaningful.³⁶

As noted by the Jesuit Social Services submission, ‘supported playgroups have been shown to nurture the development and wellbeing of both children and parents.’ When provided by trained early childhood educators, supported play groups can assist in teaching parents to facilitate their child’s learning, playing and socialisation.³⁷ In a report by the Child Family Community Australia Information Exchange, emerging evidence around supported play indicated that supported playgroups may also increase the parents’ ability to care for young children. In particular, supported playgroups may help parents of younger children engage in natural ways beyond just conversation.³⁸

³⁶ Jesuit Social Services, *Submission 35*, p. 12.

³⁷ *Ibid.*, p. 13.

³⁸ Joanne Commerford and Elly Robinson, *Supported playgroups for parents and children: The evidence for their benefits*, research paper, no. 40, Child Family Community Australia, 2016, p. 2.

In Victoria, there are supported play programs and enhanced visitation programs available at Dame Phyllis Frost Centre (Fun with Mum) and Tarrengower Prison (Fun with Mum and Small Talk). Ravenhall Correctional Centre also has an enhanced visit program available (Just for Dads). Box 8.3 provides some information about Fun with Mum and Just for Dads.

BOX 8.3: Fun with Mum and Day with Dads/Just for Dads

Fun with Mum is a program run monthly on Sundays where children are dropped off at the visitor centre to spend time with their incarcerated mother. During this time activities are organised that the mother and child can engage in together, such as arts and crafts, cupcake decorating, making friendship bracelets, colouring in, and playing card games.

These sessions and activities are clearly catered to children under the age of 10, and older children will typically spend this time just chatting with Mum. Importantly, this program extends the time allowed for the visit to four hours, as opposed to the regular two-hour visits. The increased visiting hours often makes the travel time and costs for carers and parents outside seem more worthwhile, as the two women’s prisons in Victoria are located some distance from family residences (especially Tarrengower).

Like Fun with Mums, [Day with Dads] runs in a few male prisons (e.g., Ravenhall) for incarcerated fathers once a month as an additional visit. There are some activities organised, such as barbecues, bands and food-making activities and the amount of time allocated is extended beyond normal visiting times to three-hours. The program also requires children to be dropped off to spend these visits with their incarcerated fathers.

Source: Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 29.

SHINE for Kids also provides a facilitated playgroup which is available for mothers and children living together in prison, or for parents being visited by their children. The program runs in Queensland and supports parents in prison to run activities with their children. In its submission to the Inquiry, SHINE for Kids included some feedback from parents when asked the question ‘What do you as a parent/caregiver enjoy most about playgroup?’ The parents provided the following responses:

- My son learns new things every day.
- Socialising with other mums and the different activities.
- The support from other mothers that come to playgroup.
- Sit and try and interact with my child in learning to play with toys.³⁹

Beyond supported play groups, there are additional ways to introduce activities which enhance visitation and create a more engaging environment for children. Sam, a mother at Dame Phyllis Frost Centre, told the Committee about her plans to have a picnic

³⁹ SHINE for Kids, *Submission 19*, pp. 31-32.

outside with her daughter during their visit.⁴⁰ Other families spoke about their positive experiences playing sports together with their incarcerated loved one, or the chance to do craft work together. For Aboriginal family members, cultural activities were encouraged to share knowledge and celebrate culture.⁴¹

Stakeholders also highlighted the need for a range of age-appropriate activities, as many activities were not tailored for or appealing to teenagers.⁴² Some suggestions for appropriate activities for teenagers included:

- watching movies
- doing hair
- playing video games
- educational activities about life in prison
- homework club
- outdoor activities.⁴³

Supported play and enhanced visitation initiatives help ensure that visits are positive, as natural as possible and can replicate elements of family life. Enhanced visitation allows children to engage and bond with their parents. It assists the development and wellbeing of the child, supports the parent learning how to engage with their child, and creates fun memories for all parties involved.

FINDING 64: Supported play and enhanced visitation initiatives help children and parents in prison bond in a natural and meaningful way.

The Committee believes that more opportunities for supported and facilitated play are required. While there are some programs available, community organisations should be resourced to roll these programs out widely across all Victorian prisons. Additional long-term and sustainable funding should be provided to deliver supported play and enhanced visitation initiatives in all Victorian prisons.

RECOMMENDATION 26: That the Victorian Government funds community organisations to provide regular supported play and enhanced visitation initiatives in all Victorian prisons.

⁴⁰ Sam, *Committee site visit*.

⁴¹ A submitter connected to Elizabeth Morgan House, *Submission 42*.

⁴² Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 41.

⁴³ *Ibid.*; Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 17; Norm Reed, Executive Officer, Onesimus Foundation, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 44.

8.1.6 Education and parenting programs

I haven't been able to parent, I've never gotten a chance to parent because I've been in jail.

Brendan, a father incarcerated at Loddon prison, *Committee site visit*, 27 April 2022.

In addition to supported play and enhanced visitation initiatives, there are a suite of parenting programs available across Victoria. Educational parenting programs in prison can:

- support the development of life skills
- improve the child-parent bond
- minimise some of the adverse effects experienced by children when their parents are incarcerated.⁴⁴

There are a range of evidence-based parenting programs which aim to help parents develop skills to interact with and parent their children. Depending on the program, these may teach parents:

- ways to support their children coping with life's ups and downs
- skills to identify and support child and teen anxiety and concern
- how to navigate different reactions and situations from their children
- routines to improve family life.⁴⁵

Stakeholders to the Inquiry consistently nominated parenting programs as a positive initiative to support children affected by parental incarceration. The list of available parenting programs in Victorian prisons is set out in Table 8.3.

⁴⁴ Centre for Innovative Justice, *Submission*, p. 18; Jesuit Social Services, *Submission 35*, p. 13.

⁴⁵ Triple P International and the University of Queensland, *Triple P Parenting: Positive interactions, resilient children*, <<https://www.triplep-parenting.net.nz/nz-uken/triple-p>> accessed 14 June 2022.

Table 8.3 Parenting programs available in Victorian prisons

Program	Description	Duration	Available at
Positive Parenting Program (Triple P)	<p>An evidence-based parenting program delivered by trained Corrections Victoria staff. Targeted at parents of children 0–12, the program has exercises to:</p> <ul style="list-style-type: none"> • learn about causes of children behaviours problems • develop strategies for child development • learn to manage misbehaviour • plan for high-risk situations. <p>90 minute introduction courses are also available for:</p> <ul style="list-style-type: none"> • positive parenting • raising confident, competent children • raising resilient children. 	12 hours (90 minute additional seminars)	Beechworth, Dhurringile, Fulham, Hopkins, Judy Lazarus Transition Centre, Langi Kal Kal, Loddon/Middleton, Marngoneet/Karreenga, Dame Phyllis Frost Centre, Tarrengower, Ravenhall
Teen Triple P	<p>A broad based parenting intervention for parents of teenagers up to 16 years delivered by trained Corrections Victoria staff. Exercises aim to:</p> <ul style="list-style-type: none"> • teach parents about influences on adolescent behaviour • teach parents to set specific goals with their children • develop strategies to: <ul style="list-style-type: none"> – promote a teenager’s skills development – manage inappropriate behaviour – teach emotional self-regulation – plan around risk-taking behaviour and risky situations. 	12 hours	Beechworth, Dhurringile, Fulham, Hopkins, Judy Lazarus Transition Centre, Langi Kal Kal, Loddon/Middleton, Marngoneet/Karreenga, Dame Phyllis Frost Centre, Tarrengower, Ravenhall
Parenting Inside Out	A parenting program developed specifically for incarcerated parents and carers. The longer program version includes weekly supported play and story book dads.	90 minute or 12 hour program versions	Marngoneet, Ravenhall
Getting to Know Your Teenager	<p>A parenting program that focuses on:</p> <ul style="list-style-type: none"> • understanding adolescent behaviour • how to communicate better with teenagers • developing strategies and tools for parenting. <p>The program also includes ways parents and carers can have fun with their teenagers and enjoy spending time together.</p>	2 hours	Tarrengower Prison
Parenting After Family Violence	<p>A specific parenting program for parents experiencing family violence. This includes:</p> <ul style="list-style-type: none"> • learning how to support child development • understanding the meaning behind a child’s behaviour and how this may be influenced by their experience of family violence • how to welcome safety, respect, care and love into their relationship with their children. <p>The program also provides information on self-care and how to find further support on family violence.</p>	2 hours	Tarrengower Prison

Program	Description	Duration	Available at
Bringing Up Great Kids	<p>A program aimed at parents of children aged up to 10 years old. The program focuses on:</p> <ul style="list-style-type: none"> • understanding the origins of the mother's parenting style and how this can be more effective • identifying important messages mothers in prison want to convey to their children and how to achieve this • overcoming obstacles in the way of becoming an effective parent. <p>The program also includes information of the brain development of children and understanding how to support positive behaviour in children.</p>	2 hours	Taarrengower Prison
Tuning into Kids	<p>A program aimed at parents of children aged up to 10 years old. The program focuses on understanding emotional intelligence and competencies, what can happen when children do not develop these competencies and how parents can support their children to develop these skills.</p>	2 hours	Tarrengower Prison
Tuning into Teens	<p>A program aimed to teach parents about emotional intelligences and competencies and why these skills are important, what happens when teenagers don't develop these skills, and how these skills develop. The program also focuses on the influence that parents have on an adolescent's emotional competence.</p>	2 hours	Tarrengower Prison

Source: compiled by the Legal and Social Issues Committee from Department of Justice and Community Safety, *Family engagement and parenting: programs and services guide*, available at <<https://files.corrections.vic.gov.au/2022-02/Family%20Engagement%20Programs%20and%20Services%20Guide.pdf>> accessed 13 April 2022, pp. 19–20.

While parenting programs are focused on the skills of the parents rather than the children, the benefits for children can be significant. Parenting programs are considered particularly important for people who 'may not know how to foster positive relationships with their children'.⁴⁶ Learning strengths-based parenting skills during incarceration can be an invaluable opportunity for parents to facilitate better interactions with their children and respond to their needs in healthy ways. These programs may also help parents leaving prison to readjust to family life.⁴⁷ The Centre for Innovative Justice spoke about the benefits for women who had experienced volatile childhoods themselves:

In terms of services offered to women in custody or, preferably, while they remain in the community—parenting programs and support for life skills development are especially relevant to and appropriate for women who have experienced unstable childhoods and/or interrupted schooling.⁴⁸

⁴⁶ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 32; Centre for Innovative Justice, *Submission*, p. 18.

⁴⁷ Jesuit Social Services, *Submission 35*, p. 13.

⁴⁸ Centre for Innovative Justice, *Submission*, p. 18.

The Jesuit Social Services submission also noted that parenting programs have the capacity to:

- increase the capacity for emotional communication in children, which may mitigate early childhood development issues
- reduce feelings of depression for parents
- increase knowledge
- increase communication with families and fellow people in prison.⁴⁹

The benefits are often shared between children and parents, and many longer-term programs allow children to join their parents in prison for sessions to let parents ‘apply their learning and attempt to reconnect and more positively interact’ together.⁵⁰

Despite the ‘undoubted benefits’ of well-administered parenting programs, there have been issues identified with:

- availability
- eligibility requirements
- application processes
- duration
- advertisement.⁵¹

Jesuit Social Services observed that ‘waitlists for parenting programs can be lengthy and their effectiveness is limited by only having several sessions.’⁵² This experience was reiterated by parents incarcerated across Victorian prisons, who found themselves:

- consistently applying for parenting programs and hearing nothing back⁵³
- approaching release before spaces in the program were available⁵⁴
- unable to participate in programs because there was not sufficient funding⁵⁵
- being rejected for parole due to not completing programs⁵⁶
- undertaking as many parenting programs as possible to build skills, but feeling like their commitment to their children is not recognised and the programs therefore mean ‘nothing’.⁵⁷

⁴⁹ Jesuit Social Services, *Submission 35*, p. 13.

⁵⁰ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, pp. 32–33.

⁵¹ *Ibid.*, p. 37.

⁵² Jesuit Social Services, *Submission 35*, p. 14.

⁵³ Carl, A father incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022; Brice, A father incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

⁵⁴ Brice, *Committee site visit*.

⁵⁵ Fathers incarcerated at Ravenhall Correctional Centre, *Committee site visit*, supplementary evidence received 20 April 2022.

⁵⁶ William, *Committee site visit*.

⁵⁷ Brendan, *Committee site visit*.

The Committee also heard evidence that parenting programs were significantly limited for fathers. In its submission to the Inquiry, Smart Justice for Women noted that:

Other than Triple P, men have no parenting support available to them at a time when many are most motivated to work on their relationships in family (which, if well supported, in turn can help mothers/other women primary carers in the community).⁵⁸

This was reiterated by Liberty Victoria and the Parliamentary Budget Office.⁵⁹ Submitters also noted that much of the prison cohort was restricted from applying for prison programs due to being on remand.⁶⁰

In youth justice, there were further barriers to young parents accessing services due to the scarce resources. The Commissioner for Children and Young People relayed the story of a young person in custody wishing to access parenting programs in preparation for the birth of his first child. However, the program was no longer available and the young person was told that ‘it was unclear if, or when, a program would be provided in the future.’⁶¹

The Committee accepts the evidence that parenting programs contribute to greater parent-child relationships during prison, and post-release. However, the current delivery program does not meet the needs of the incarcerated population and their families.

FINDING 65: Parenting programs for parents in prison can improve parenting capacity and support better parent-child relationships during incarceration and post-release. However, programs are not readily accessible to all parents who wish to participate.

The Committee believes that extending evidence-based parenting programs will assist parents to develop important skills and capabilities. This in turn will increase the parental support available to their children, and help improve parent-child relationships.

RECOMMENDATION 27: That the Victorian Government fund an extension of the parenting programs across all Victorian prisons and youth justice precincts commensurate with need and demand. This includes:

- making programs available within a reasonable timeframe (under three months)
- making shorter programs available to people on remand
- making all programs available for people who will be incarcerated for at least six months.

⁵⁸ Smart Justice for Women, *Submission 37*, p. 4.

⁵⁹ Liberty Victoria, *Submission 38*, p. 8; Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, Parliament of Victoria, East Melbourne, 2022, p. 6.

⁶⁰ Dr Marietta Martinovic and Grace Stringer, *Submission 32*, p. 43.

⁶¹ Commission for Children and Young People, *Submission 33*, p. 11.

8.2 Transitional support

8.2.1 Pre-release planning

the gaps in this whole system are phenomenal, that yeah, as the custodial parent I don't even know that mum is out. The pre-planning, the pre-sentencing, the post-sentencing, the pre-dismissal, there is absolutely no contact with the custodial parent. I may be an exception, I don't know, but I'm just telling you, no one has contacted me. She got out yesterday.

A carer via VACRO, Submission 17, p. 21.

In addition to parenting programs in prison, the Committee heard that parents leaving prison need support to plan their release and to reintegrate back into the community. This Section outlines the pre-release programs available in Victoria. It touches on the importance of post-release supports for parents and references recommendations in the report *Inquiry into Victoria's criminal justice system* pertaining to pre-release and post-release supports.

Pre-release support for people leaving prison can help prepare for a range of needs, including:

- housing
- employment
- education and training
- independent living skills
- mental health
- alcohol and drugs
- family/community connectedness.⁶²

In Victoria, Corrections Victoria facilitates a number of pre-release supports. These are outlined at Table 8.4.

⁶² Corrections Victoria, *Transitional support*, 2022, <<https://www.corrections.vic.gov.au/release/transitional-programs>> accessed 14 June 2022.

Table 8.4 Pre-release initiatives available in Victoria

Program	Description
Pre-release programs	
Remand Release Assistance Program (RRAP)	<p>The Remand Release Assistance Program is available to remand prisoners who may be discharged directly from court. There are a number of reasons why a remand prisoner may be discharged from court—they might get bail, be released for time served, or may receive a Community Correction Order (CCO). A large number of people exit the criminal justice system through direct court discharge, which poses a number of challenges to pre-release transition planning.</p> <p>The RRAP aims to equip individuals with information about relevant support services that may be able to help them in the event of discharge directly from court.</p> <p>The Remand Release Assistance Program provides information about the following:</p> <ul style="list-style-type: none"> • Centrelink payments and services, including the crisis payment • crisis accommodation • health services, including accessing medication • drug and alcohol harm minimisation • processes for collecting personal property and money from the prison • information about the Court Integrated Services Program (CISP) and CREDIT/Bail support programs.
Case Planning Transition Phase	<p>For remandees and prisoners serving sentences longer than 12 months, a Case Planning Transition (CPT) assessment is conducted at a later stage. The CPT builds on issues identified in the RTT, by using a Reintegration Assessment tool to further help identify transitional needs, which then supports the assistance and referrals required to be addressed during their sentence. For further information about programs for remandees see information regarding ReStart Program and the Remand Release Assistance Program (RRAP). (RRAP is mentioned above).</p>
ReGroup	<p>The aim of the ReGroup phase is to commence planning for the prisoner's transition back into the community by identifying their reintegration needs (with the use of the Reintegration Assessment tool) and providing them with the necessary targeted supports and referrals to address those needs. This phase is also designed to identify prisoners who may be eligible for more intensive transitional support programs within the CVRP such as ReLink. The ReGroup phase applies to all sentenced prisoners and commences up to 12 months pre-release or immediately on entry for prisoners serving shorter sentences.</p>
Targeted pre-release programs	
ReLink	<p>Building on ReGroup, a contracted program, ReLink, is run by VACRO and is available for eligible prisoners up to 12 months prior to release. There are two components, which provide practical advice and tailored transitional support, particularly for women and Aboriginal and Torres Strait Islander prisoners.</p> <ul style="list-style-type: none"> • Level One - Group Program: Facilitated group sessions focus on practical strategies and provide an opportunity for positive behaviour change influenced by peers, while allowing for practice of positive skills. • Level Two - Individual Program: This program supports individual transition case planning for prisoners identified in the group program as having significant transitional needs. <p>ReLink includes intensive planning with regards to prisoner goals and formulates manageable steps for the prisoner to work through. Other support, including medical assessments, Office of Housing applications and referrals for post-release support agencies before release, is also covered in this program.</p>

Source: Corrections Victoria, *Transitional support*, 2022, <<https://www.corrections.vic.gov.au/release/transitional-programs>> accessed 15 June 2022.

The Committee heard that many pre-release programs did not engage sufficiently with children, if at all. The Centre for Innovative Justice noted that children ‘often do not feature’ in pre-release planning.⁶³ Similarly, VACRO noted that:

Corrections Victoria has no specific protocol for the release of a primary carer. Other than the in-prison family support programs ... there is limited education, information, or counselling available parents and carers being released home to children. Corrections Victoria does not facilitate special pre-release visits to allow for handover or reunification planning, and often interim carers in the community are not notified when the parent is released. Most reunification therefore happens with minimal planning and support.⁶⁴

H, who spoke at a closed hearing, told the Committee that planning for their parent’s release was a big unknown:

his sentence is over next year or so, and it is just such a huge void. I have never been able to think of the future that much at all. I am always someone who cannot think beyond a year because I never know what is going to happen next. And now I know I have to start working on these things, because now my life is going to change drastically. I have no idea what it is going to be like.⁶⁵

Some elements of pre-release planning for parents may also be specific for primary carers or for parents who are seeking reunification with their children. Importantly, ‘the first thing that [the parent] needs to have any chance of gaining [their] children back is a stable place to live and some support to manage that post-release.’⁶⁶ As such, some post-release accommodations—particularly group accommodation arrangements—may not be appropriate for children. Further, for parents who are released on parole conditions with geographical restrictions, there may be additional barriers preventing parents from seeing their children.

The Committee also heard from fathers incarcerated in Loddon Prison that the inclusion of family reunification in pre-release planning could be detrimental. Several fathers reported recording their family home as their planned address following release, only to have Child Protection visit their partners and threaten child removal.⁶⁷

The Committee believes that, as in Chapter 6, the interests of affected children should be considered in pre-release planning. This should include:

- communicating anticipated release dates with the family on the outside
- ensuring that family counselling (see Section 8.1.2) can work with all members of the family to support changing dynamics leading up to release
- considering children’s needs and prioritising family-friendly accommodation for primary carers as a priority.

⁶³ Centre for Innovative Justice, *Submission*, p. 10.

⁶⁴ VACRO, *Submission 17*, p. 21.

⁶⁵ H, *Transcript of evidence*, p. 16.

⁶⁶ Leigh Garrett, *Transcript of evidence*, p. 5.

⁶⁷ Fathers incarcerated at Loddon Prison, *Committee site visit*, supplementary evidence received 27 April 2022.

FINDING 66: The interests of children are not consistently incorporated into pre-release planning. Children, carers, and case managers and relevant professionals should be incorporated into pre-release discussions to ensure that children’s interests are protected.

The Committee urges the Victorian Government to implement Recommendation 91 of the report *Inquiry into Victoria’s criminal justice system* to ensure that pre-release supports are adequately resourced to meet the demands of the prison population.

8.2.2 Post-release support

There’s a few times that mum entered and left prison and the communication wasn’t that good. So one of the times after a significant amount of time in prison, she was going to be leaving. With two days before leaving, only two days’ worth of case planning, she was released to a motel in Footscray. And after two and a half years of being clean and all of that sort of stuff, she was in a motel in Footscray and they hadn’t even got her medications right and the pharmacy she was booked into for that, she was banned from that pharmacy. There was just all of these barriers that were never going to make it work. She was going to live in Footscray and pick her medications up from the city, she had no bank, there was nothing, there was nothing they could do. And at that time she got out, she was missing by 5.00 at night and we didn’t get to see her at all. Other times when she got picked up on remand, they didn’t tell us – which we’re not necessarily the next of kin, but we didn’t find out. Her grandma didn’t find out, there were no other living people to tell, and you’d just happen to find out eventually through, like connections in community, that would reach out and tell me. There’s all these times in and out that we didn’t know where she was and what she was doing.

And then the last time back in, she wasn’t well enough to see him at all, like we hadn’t got in. And she was, it was like the school holidays and I asked and they’re like “Oh no, she’s been out for a while” and then she ended up passing away not too long after that. So we definitely missed that opportunity to get connected, whoever the services were.

A submitter connected to Elizabeth Morgan House, *Submission 42*, 9:37–11:21.

The transition between incarceration and release into the community has been recognised as a particularly vulnerable time for people. This issue was explored in the Committee’s report, *Inquiry into Victoria’s criminal justice system*, which found that:

The period immediately following an incarcerated person’s release back into the community can be challenging and dangerous, particularly for people with alcohol and other drug use issues. The risk of relapse, overdose and death is heightened during this period.

We also note the existence in WA of the Boronia pre-release facility, a rehabilitative ‘family-friendly’ women’s prison, designed, in part to assist mothers to enhance their relationship with their young children and create a more nurturing family environment for the children on leaving prison. Evidence of effectiveness of such settings is still being

generated, but it is a model that, in theory, should make a positive difference to the lives of children of imprisoned parents.⁶⁸

The report argued that:

Appropriate and timely transitional support for incarcerated people exiting Victorian prisons can reduce adverse health outcomes (such as death) following release, facilitate successful reintegration into the community and reduce recidivism.⁶⁹

As a response, it made recommendations to expand resourcing for Corrections Victoria and community organisations involved in transitional support. The Committee would like to draw attention to Recommendation 91 of the report *Inquiry into Victoria's criminal justice system*, which recommended:

That the Victorian Government increase funding and other resources available to:

- Corrections Victoria, to support comprehensive pre-release planning for all incarcerated people prior to their reintegration back into the community
- community-based services—that provide mental health, alcohol and other drug treatment, disability support, education and training, and culturally appropriate support—to assist people exiting prison to reintegrate back into the community.⁷⁰

At the time of writing, the Victorian Government response to its report, *Inquiry into Victoria's criminal justice system*, has not been tabled. As such, the Committee is unable to assess whether the Government has implemented the recommendations in the report. However, the Committee heard evidence for the current Inquiry that reiterated the need for appropriate post-release support services.

Leigh Garrett, Chief Executive Officer of OARS Community Transitions, spoke about the vulnerability of parents trying to adapt to parenting outside of prison:

You can be educated about how to be a good father, but if the post-release reconciliation with the family goes wrong, well, you will simply ruin that opportunity.⁷¹

For many stakeholders, housing was identified as a key obstacle for post-release reunification between children and parents. Leigh Garrett told that Committee that:

the problem of housing post-release for offenders is making a major impact on children. We have a severe shortage of housing everywhere in this country and an even more severe shortage of housing for offenders who are released, particularly women who want to get their children back. A stable family post-release is really critical for appropriate and high-quality offender reintegration. Of course that is subject to safety for everybody.⁷²

⁶⁸ Dr Megan Bell, Professor Leonie Segal and Professor David B Preen, *Submission 41*, p. 1.

⁶⁹ Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into Victoria's criminal justice system*, March 2022, p. 674.

⁷⁰ Ibid.

⁷¹ Leigh Garrett, *Transcript of evidence*, p. 2.

⁷² Ibid.

Alison Churchill, Chief Executive Officer at the Community Restorative Centre in New South Wales, told the Committee that safe housing was imperative to supporting parents to remain in the community:

I think all indications for us, for all of our other programs that are not section 26, if you address disadvantage, you provide people with safe, secure housing, you enable women to engage with children and men to engage with children or connection to family and you create identities outside of the prison system and pathways away from the prison system, it tends to be quite effective.⁷³

Beyond housing, the Committee heard from stakeholders about the importance of connecting prison leavers with ongoing family therapy and other opportunities for healthy engagement, such as education, training and employment. While the Committee heard in previous Inquiries that the Victorian Government offers a number of generally well-received post-release supports, Leigh Garrett noted that the experience of incarceration can cause mistrust in governments from people leaving prison, and therefore community organisations play an important role in providing post-release support:

The other thing I think is really important to recognise is the role of [non-government organisations] is very important in relation to these matters post-release because trust is vital, and we have worked with very many men and women who would not speak with governments about the crisis that was going on in their post-release lives simply because they did not trust them.⁷⁴

The Committee canvassed transitional support post-release in its Inquiry into Victoria's criminal justice system, and again recommends that the Victorian Government fund community organisations to implement appropriate transitional services for prison leavers to ease transition back to the community, and support family reintegration where appropriate.

RECOMMENDATION 28: That the Victorian Government implement Recommendation 91 of the report *Inquiry into Victoria's criminal justice system* as a matter of priority.

8.3 Community sector capability

As discussed in Chapter 4, government-led support for the children of incarcerated parents is largely absent. The bulk of the work in this space is undertaken by community sector organisations. The Committee heard from many different stakeholders about the reliance on community sector organisations. A number of stakeholders praised the work of these organisations but reiterated that the reliance on community sector

⁷³ Alison Churchill, Chief Executive Officer, Community Restorative Centre (New South Wales), public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 45–46.

⁷⁴ Leigh Garrett, *Transcript of evidence*, pp. 2–3.

organisations indicated a failure of government systems to provide leadership or support for the sector working with this vulnerable cohort.⁷⁵

The following sections address the community sector's need for:

- consistent and sustainable funding
- improved access and resourcing
- additional therapeutic support
- expanded training and professional development.

8.3.1 Need for consistent and sustainable community sector funding

The thing I find so unbearable is that organisations like us—and there are many, and we have results—battle so much for funding.

Maud Clark OAM, Director, Somebody's Daughter Theatre Company, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 25.

We were listening in to some of the evidence this morning from SHINE for Kids and cheering about the evidence of just the paltry amount of funding that there is for community organisations who are working in this sector.

Karen Fletcher, Executive Officer, Flat Out Inc. public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 34.

this has to be at the treasury level; it has to be across government that everybody is digging in their pockets and actually funding work to support these children.

Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 35.

As noted throughout this Chapter, the bulk of support service providers catering for children and families affected by incarceration are community organisations. For many of these organisations, there is a necessary reliance on government funding to provide their services. However, the Committee heard that funding in the community sector is dire and is severely impacting the ability of the sector to provide appropriate services.

For many community sector organisations, the process of applying for funding is extremely resource-intensive. If funding is awarded, it is also generally provided for a year or two at a time.⁷⁶ Julie Hourigan Ruse, Chief Executive Officer at SHINE for Kids,

⁷⁵ SHINE for Kids, *Submission 19*, p. 3; Maud Clark, Chief Executive Officer, Somebody's Daughter Theatre Company, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, pp. 24–25; Rachael Hambleton, Board Member, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 44; Professor Susan Dennison, *Transcript of evidence*, p. 29; Public Health Association Australia, *Submission 21*, p. 3.

⁷⁶ See for example Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 25; Professor Susan Dennison, *Transcript of evidence*, p. 29; April Long, National Operations Manager, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 10.

spoke to the Committee about the impact of the resource-intensive short-term funding cycles:

The short-term nature of funding is absolutely the biggest barrier ... Every year we have this horrible three months where there is just this real uncertainty, and as organisations we send multiple emails to the agencies to get certainty. I absolutely recognise it links to budget cycles and other things in government⁷⁷

April Long, National Operations Manager at SHINE for Kids, reiterated that the system ‘creates such a resource burden on [SHINE for Kids] as an organisation because it pulls people from what they really need to be doing’.⁷⁸ Aunty Muriel Bamblett AO, Chief Executive Officer at VACCA, also spoke to the Committee about similar experiences at her organisation.⁷⁹ Flat Out Inc. echoed the sentiments, highlighting the ‘paltry amount of funding that there is for community organisations who are working in this sector.’⁸⁰

The impact of insufficient funding on service provision has been tangible. Leigh Garrett, Executive Officer at OARS Community Transitions, explained that his organisation ‘constantly faces[s] that dilemma of not being able to access some of the really big bucks for the work that we do.’⁸¹ SHINE for Kids told the Committee that it is only able to help around 25% of children in need in Victoria due to a lack of funding.⁸² Similarly, Aunty Muriel Bamblett AO told the Committee that VACCA was unable to expand its in-demand Koori women’s diversion programs due to insufficient funding.⁸³

The unreliable and sporadic funding models have impeded the ability for strong program provisions throughout Victoria. As noted by Rachael Hambleton, Flat Out Inc. Board Member:

It is often one to three years of funding for something—and people always want to fund new, shiny things, so often really good programs are piloted and then cannot get the funding to be continued.⁸⁴

For some organisations, the short-term nature of government funding has put them off applying entirely. Glen Fairweather, Chief Executive Officer at Prison Fellowship Australia, spoke about his organisation’s reluctance to consider government funding:

Just last week we made a decision not to apply for some government funding in another jurisdiction, because they were looking to fund one-off, short-term projects in this space, and we just thought, ‘Well, that’s just going to set us up’. If we establish 10 mentoring relationships between kids and young people over the course of 12 months—and explicit

⁷⁷ Julie Hourigan Ruse, Chief Executive Officer, SHINE for Kids, public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 174.

⁷⁸ April Long, *Transcript of evidence*, p. 18.

⁷⁹ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 21.

⁸⁰ Karen Fletcher, Executive Officer, Flat Out Inc., public hearing, Melbourne, 31 March 2022, *Transcript of evidence*, p. 35.

⁸¹ Leigh Garrett, *Transcript of evidence*, p. 10.

⁸² April Long, *Transcript of evidence*, p. 11.

⁸³ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 21.

⁸⁴ Rachael Hambleton, *Transcript of evidence*, p. 44.

in that State Government application process was that this was to fund a one-off or a short-term project—how do we continue that on unless we lean further and more onto our donors?⁸⁵

Further, ad-hoc funding has impacted the development and implementation of a range of successful pilot programs. A number of organisations spoke to the Committee about receiving one-off funding for pilot programs, or having successful programs at risk or discontinued due to a lack of continued funding. Some of the organisations who spoke about this experience to the Committee include:

- Flat Out Inc.⁸⁶
- VACRO⁸⁷
- OARS Community Transitions⁸⁸
- Prison Fellowship Australia⁸⁹
- Somebody's Daughter Theatre Company.⁹⁰

For Aboriginal Community Controlled Organisations supporting young people, funding was even more difficult to obtain. For the funding allocated to child welfare early intervention funding, Aboriginal Community Controlled Organisations are allocated '3 per cent of early help funding, yet Aboriginal children represent 21 per cent of the child protection system and 27 per cent of the care system.'⁹¹

Aunty Muriel Bamblett AO spoke to the pressure that this process placed on VACCA when trying to fund its successful but oversubscribed Koori women's diversion programs:

Regardless of exceeding targets and the outcomes we achieve, we only receive a short-term commitment from government for many of our programs—and worse is the way these essential programs are funded. At the end of each funding cycle we have to retender regardless of outcomes we achieve, and we are forced often to recompet with other Aboriginal organisations or, worse, mainstream, to continue our programs.⁹²

The Committee was continually impressed by the amazing work being done by the community organisations supporting families affected by incarceration. However, the Committee was disheartened to hear how little funding was available for organisations supporting children and families affected by incarceration. Moreover, the resource-intensive application processes for grants and funding opportunities have put additional pressure on organisations that need to be focused on service provision.

⁸⁵ Glen Fairweather, *Transcript of evidence*, p. 21.

⁸⁶ Karen Fletcher, *Transcript of evidence*, p. 35.

⁸⁷ Melanie Field-Pimm, *Transcript of evidence*, p. 51.

⁸⁸ Leigh Garrett, *Transcript of evidence*, p. 8.

⁸⁹ Glen Fairweather, *Transcript of evidence*, p. 22.

⁹⁰ Maud Clark, *Transcript of evidence*, p. 26.

⁹¹ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 22.

⁹² *Ibid.*, p. 21.

FINDING 67: There is insufficient government funding available to organisations supporting children and families affected by incarceration. More funding is needed on a sustainable long-term basis to allow organisations to provide a level of support commensurate with the need in the community.

8.3.2 The benefits of sustained long-term funding

I would actually love it if through government we could get three- to four-year funding, because you can plan; you can actually plan.

Maud Clark AM, Chief Executive Officer, Somebody's Daughter Theatre Company, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 27.

For many organisations supporting families affected by incarceration, sustained funding would change the nature of their service delivery. It would allow organisations to plan in advance, rather than being reactive to the level of funding available. Further, it would allow organisations to implement, evaluate, and improve targeted program initiatives supporting children affected by parental incarceration.

Incorporating ongoing service provision into systems

Sustained funding would also support organisations to roll out more programs across all Victoria prisons and embed services into an ongoing, holistic system. An example of this is the potential to link services to the Victoria Police e-Referral service, VPeR. VPeR was explained by Melanie Field-Pimm, Development Manager at VACRO:

It is the Victoria Police e-Referral system. Essentially, when they make an arrest, they have a range of services—like, they have a lot of youth services hooked into it—so they can go, ‘This is out of my league’... they just put in a referral and that service receives the referral by email and follows up with those individuals.⁹³

VPeR allows Victoria Police to ‘connect at risk community members to external support’.⁹⁴ It is part of Victoria Police’s 2015 *Future Directions for Victim-Centric Policing* policy document, which notes that police and support services can work to:

- enhance referral pathways
- identify additional referral pathways (increasing referral types)
- bridge service gaps.⁹⁵

VACRO contended that an initiative for children affected by parental incarceration could be built into the e-referral system, ‘but those services need to be funded to respond.’

⁹³ Melanie Field-Pimm, *Transcript of evidence*, p. 51.

⁹⁴ Eastern Health, *Victoria Police e-Referral program (VPeR) service evaluation: a community referral service provided by Victoria Police*, (n.d.), <https://www.vaada.org.au/wp-content/uploads/2019/03/Victorian-Police-E-Referral-System_VPeR_SDIAS.pdf> accessed 16 June 2022, p. 2.

⁹⁵ Victoria Police, *Future directions for victim-centric policing*, policy paper, Victoria Police, Docklands, August 2015.

Melanie Field-Pimm, Development Manager at VACRO, spoke to the Committee about VACRO's experience as a referral point for the e-referral system, but noted that 'the referrals were too much for us because we did not have the funding to deliver the service increase.'⁹⁶

Providing sufficient funding for community organisations to participate in e-referral systems could ensure that children present at arrests, or families affected by incarceration, are able to access support services immediately when required. It can then help to reduce the harms caused by a parent being removed from the home. However, to enable services to respond to e-referral programs appropriately, sustainable and long-term funding is required.

FINDING 68: Community organisations have the capacity to maintain a vital systems role receiving referrals from first responders and supporting families affected by incarceration. The organisations are currently unable to do this due to the lack of sustainable and long-term funding.

Improved workforce retention

The Committee also heard from stakeholders that community organisations in this sector struggled with workforce retention due to short-term contracts, employment uncertainty, competition within the sector and an inability to match wages offered by government departments.⁹⁷ Aunty Muriel Bamblett AO spoke to the Committee about losing VACCA's staff members to better paid government jobs:

They are taking our \$70 000 staff that we have trained up and skilled up and then taking them over to government and offering them \$120 000. So I just think there are so many inequities in the way that we are treated.⁹⁸

Similarly, Julie Hourigan Ruse spoke to the Committee about the lack of job security available at SHINE for Kids:

It creates enormous employment risks for us ... Obviously we do not want to let staff go, but the risk is that people have mortgages to pay and rent and their own families to feed and they need employment stability, so they start looking for other work.⁹⁹

Further, a lack of workforce retention can make it difficult for children to develop positive relationships with support providers because their points of contact are constantly changing. This was echoed by the women incarcerated at Dame Phyllis Frost Centre who spoke to the Committee. They stated that it was good for them and their children to develop a relationship with staff from SHINE for Kids and the Prison Network who ran facilitated play programs—however, due to turnover, they could no longer remember who was running the programs.

⁹⁶ Melanie Field-Pimm, *Transcript of evidence*, p. 51.

⁹⁷ See for example VACCA, *Submission 29*, p. 14.

⁹⁸ Adjunct Professor Aunty Muriel Bamblett, *Transcript of evidence*, p. 25.

⁹⁹ Julie Hourigan Ruse, *Transcript of evidence*, p. 17.

As noted above, Glen Fairweather, General Manager at Prison Fellowship Victoria, and program participant Holly Nicholls spoke to the Committee about the importance of developing long-term relationships between children and support workers, particularly to address the lack of stability in children's lives. Glen reflected on how Holly's positive outcome could be more common if mentors stayed present in children's lives into adulthood:

I think we could see many more examples like Holly if we had more volunteers working with these young people over the longer journey, and that would mean that volunteers are engaging with the families as well ...

But with that longevity the challenge is the funding opportunities are often short term, whereas the needs are long term.¹⁰⁰

The Committee recognises the impact that a consistent workforce could have on children affected by parental incarceration. Consistency and improved retention would allow greater relationship-building, contribute to increased sector capacity and allow staff in the sector to train further and specialise in other areas, such as therapeutic support. Long-term, sustainable funding models are required to ensure that professionals in this sector can provide adequate and informed support to families affected by parental incarceration.

FINDING 69: Community organisations are struggling to retain staff members due to uncertain employment conditions, a lack of pay parity and competition within the sector.

RECOMMENDATION 29: That the Victorian Government develop a long-term sustainable funding model to resource community organisations supporting children affected by parental incarceration and their families. This funding should be sufficient to:

- allow successful existing programs to expand across all Victorian prisons
- reflect the overrepresentation of Aboriginal Victorians in the justice system
- permit organisational expansion to meet the demand in the community including:
 - sufficiently resourcing organisations to act as a point of referral
 - implementing successful pilot programs on an ongoing basis
 - ensuring that programs are evaluated on a regular and ongoing basis
- resource organisations with appropriate staff members who can be retained on long-term contracts or on an ongoing basis
- develop and train additional therapeutic staff and informed support workers.

¹⁰⁰ Glen Fairweather, *Transcript of evidence*, p. 21.

**Adopted by the Legislative Council Legal and Social Issues Committee
Parliament of Victoria, East Melbourne
13 July 2022**

Appendix A

About the Inquiry

A.1 Submissions

1	Name withheld	24	Yarra Drug and Health Forum
2	Name withheld	25	Safe and Equal
3	Confidential	26	Change the Record
4	Name withheld	27	Dr Catherine Flynn
5	Religious Society of Friends (Quakers) Victoria	28	Victorian Council of Social Service
6	Name withheld	29	Victorian Aboriginal Child Care Agency
7	Confidential	30	Centre for Excellence in Child and Family Welfare
8	Benjamin Cronshaw	31	Law and Advocacy Centre for Women
9	Friends of Castlemaine Library (FOCAL)	32	Dr Marietta Martinovic and Grace Stringer (on behalf of five Think Tanks)
10	Dr Alannah Burgess	33	Commission for Children and Young People (Victoria)
11	Dr Karleen Gribble	34	Victorian Alcohol and Drug Association
12	Somebody's Daughter Theatre Company	35	Jesuit Social Services
13	South-East Monash Legal Service Inc.	36	Indigenous Law and Justice Hub
14	The Victorian Aboriginal Children and Young People's Alliance	37	Smart Justice for Women
15	Commissioner for Children and Young People(South Australia)	38	Liberty Victoria
16	Dr Tatiana Corrales	39	Centre for Innovative Justice, RMIT University
17	VACRO	40	Victorian Aboriginal Legal Service
18	Name withheld	41	Dr Megan Bell, Professor Leonie Segal and Professor David Preen
19	SHINE for Kids	42	A submitter connected to Elizabeth Morgan House
20	Community Restorative Centre	43	Meredith Kiraly
21	Public Health Association of Australia		
22	Harm Reduction Australia		
23	Students for Sensible Drug Policy, University of Melbourne Student Union		

A.2 Public hearings

Wednesday 30 March 2022

via videoconference

Name	Title	Organisation
Anne McLeish OAM	Director	Kinship Carers Victoria and Grandparents Victoria
Professor Thalia Anthony	Professor of Law	University of Technology Sydney
Adjunct Professor Aunty Muriel Bamblett AO	Chief Executive Officer	Victorian Aboriginal Child Care Agency
Professor Susan Dennison	Director	Transforming Corrections to Transform Lives, Griffith University
Norm Reed	Executive Officer, Onesimus Foundation	Children Affected by Parental Offending (CAPO) Steering Group
Stacey Milbourne	Doorways Manager, Tasmania Salvation Army Australia Territory	Children Affected by Parental Offending (CAPO) Steering Group
Teresa Pockett	Student Support Leader, Learning Services, Department of Education	Children Affected by Parental Offending (CAPO) Steering Group
Julie Bunyard	Former Family Consultant, Tasmania Prison Service	Children Affected by Parental Offending (CAPO) Steering Group

Thursday 31 March 2022

Meeting room G.1 & G.2, 55 St Andrews Place, East Melbourne and via videoconference

Name	Title	Organisation
Professor Nancy Loucks	Chief Executive Officer and Chair, International Coalition for Children with Incarcerated Parents	Families Outside
Julie Hourigan Rise	Chief Executive Officer	SHINE for Kids
April Long	National Operations Manager	SHINE for Kids
Moana Wati	Victorian State Manager	SHINE for Kids
Dr Catherine Flynn	Senior Lecturer, Director Higher Degree Research Program, Deputy Head of Department	Department of Social Work, Monash University
Karen Fletcher	Chief Executive Officer	Flat Out Inc.
Rachael Hambleton	Member of the Flat Out Board	Flat Out Inc.
Rei Alphonso	Family Violence Justice Project Coordinator	Flat Out Inc.
Kasey Elmore	Manager and Operations & Strategic Advocacy	Flat Out Inc.
Marius Smith	Chief Executive Officer	VACRO
Melanie Field-Pimm	Development Manager	VACRO
Romy Same	Parents and Family Counsellor	VACRO

Monday 9 May 2022

Meeting room G.6, 55 St Andrews Place, East Melbourne and via videoconference

Name	Title	Organisation
Leigh Garret	Chief Executive Officer	OARS Community Transitions (South Australia)
Glen Fairweather	General Manager	Prison Fellowship Australia
Richard Boonstra	Victorian State Manager	Prison Fellowship Australia
Holly Nicholls	-	-
Clarisa Allen	-	-
Maud Clark AM	Chief Executive Officer	Somebody's Daughter Theatre Company
Denise Jepson	President	Friends of Castlemaine Library (FOCAL)
Lisa D'Onofrio	Community Arts worker and Read Along Dads Facilitator	Friends of Castlemaine Library (FOCAL)
Alison Churchill	Chief Executive Officer	Community Restorative Centre (New South Wales)
Marisa Moliterno	Program Manager, The Miranda Project	Community Restorative Centre (New South Wales)
Melinda Walker	Criminal Lawyer	-
Larissa Strong	Commissioner	Corrections Victoria

Wednesday 25 May 2022

Meeting room G.1 & G.2, 55 St Andrews Place, East Melbourne and via videoconference

Name	Title	Organisation
'H'	-	-
Leigh Pappos	-	-
Rachael Hambleton	-	-

A.3 Site visits

Wednesday 20 April 2022

Dame Phyllis Frost Centre, 101–201 Boundary Road, Ravenhall, Victoria and
Ravenhall Correctional Centre, 97 Riding Road, Ravenhall, Victoria

Name	Title	Organisation
Melissa Westin	Deputy Commissioner	Corrections Victoria
Tracy Jones	General Manager	Dame Phyllis Frost Centre
Cynthia	-	Dame Phyllis Frost Centre
Sam	-	Dame Phyllis Frost Centre
Courtney	-	Dame Phyllis Frost Centre
Anita	-	Dame Phyllis Frost Centre
Dr Fiona Murphy	Director, Rehabilitation and Reintegration	Department of Justice and Community Safety
Colin Caskie	General Manager	Ravenhall Correctional Centre
Raymond	-	Ravenhall Correctional Centre
Kaleb	-	Ravenhall Correctional Centre
Jye	-	Ravenhall Correctional Centre
Justin	-	Ravenhall Correctional Centre
Jesse	-	Ravenhall Correctional Centre
Jacob	-	Ravenhall Correctional Centre
DP	-	Ravenhall Correctional Centre
Shane	-	Ravenhall Correctional Centre
Brice	-	Ravenhall Correctional Centre
Name Withheld	-	Ravenhall Correctional Centre

Wednesday 27 April 2022

Loddon Prison, Matheson Road, Castlemaine, Victoria and Malmsbury Youth Justice Centre,
30 Mollison Street, Malmsbury, Victoria

Name	Title	Organisation
Larissa Strong	Commissioner	Corrections Victoria
Catherine Darbyshire	General Manager	Loddon Prison
William	-	Loddon Prison
Sam	-	Loddon Prison
Nick	-	Loddon Prison
Sean	-	Loddon Prison

Name	Title	Organisation
Johnny	-	Loddon Prison
Craig	-	Loddon Prison
Carl	-	Loddon Prison
Brendan	-	Loddon Prison
Jodi Henderson	Commissioner, Youth Justice	Department of Justice and Community Safety
Dean	-	Malmsbury Youth Justice Centre
Chot	-	Malmsbury Youth Justice Centre
Sunday	-	Malmsbury Youth Justice Centre
Deng	-	Malmsbury Youth Justice Centre

Monday 30 May 2022

Wellington Central, Wellington, New Zealand

Name	Title	Organisation
Hon Kelvin Davis MP	Minister of Corrections, Minister for Children, Minister for Māori Crown Relations: Te Arawhiti and Associate Minister of Education	New Zealand Parliament
Matt Huddleston	Principal Adviser to the Chief Executive	Department of Corrections
Judge Frances Eivers	Commissioner	Office of the Children's Commissioner
Glenis Phillip-Barbara	Assistant Māori Children's Commissioner	Office of the Children's Commissioner
Martini Miller-Pānapa	Advisor, Strategy, Rights and Advice	Office of the Children's Commissioner
Hayden Gray	Project Manager, Parole	Department of Corrections: Ara Poutama Aotearoa
Karen Gillies	Workstream Co-Lead: Women's Prison Network Improvement Programme	Department of Corrections: Ara Poutama Aotearoa
Matthew Murfitt	Manager, Reintegration Services	Department of Corrections: Ara Poutama Aotearoa
Martin Mariota	Principal Adviser, Reintegration Project	Department of Corrections: Ara Poutama Aotearoa
Kelsey Gee	Lead Designer, High Impact Innovation Programme	Department of Corrections: Ara Poutama Aotearoa

Tuesday 31 May 2022

Pipitea, Wellington, New Zealand

Name	Title	Organisation
Aphiphany Forward-Taua	Executive Director	Just Speak
Hon Louise Upston MP	Co-Chair, New Zealand-Australia Parliamentary Friendship Group and member of the Social Services and Community Select Committee	New Zealand Parliament
Ginny Anderson MP	Co-Chair, New Zealand-Australia Parliamentary Friendship Group and Chair of the Justice Select Committee	New Zealand Parliament
Naisi Chen MP	Member, New Zealand-Australia Parliamentary Friendship Group; Deputy Chair, Economic Development, Science and Innovation Select Committee	New Zealand Parliament
Penny Simmonds MP	Member, New Zealand-Australia Parliamentary Friendship Group; Member, Health Select Committee	New Zealand Parliament
Angie Warren-Clark MP	Chair, Social Services and Community Select Committee	New Zealand Parliament
Glen Bennett MP	Deputy Chair, Social Services and Community Select Committee	New Zealand Parliament

Wednesday 1 June 2022

Pillars, 6a Jack Conway Avenue, Manukau, Auckland, New Zealand

Name	Title	Organisation
Maxine Gay	General Manager	Pillars
Corrina Thompson	Senior Mentoring Coordinator	Pillars
Aroha Newby	Senior Social Worker	Pillars

Thursday 2 June 2022

Airedale Suites, 380 Queen Street, Auckland, New Zealand

Name	Title	Organisation
Tony Culliney	Chief Executive	Storytime Foundation
Dr Jo Kayes	Service Coordinator	Storytime Foundation
Alex Woodley	Evaluator	Storytime Foundation

Appendix B
**Questions for the Office of
the Victorian Information
Commissioner**



Sven Bluemmel
Information Commissioner
Office of the Victorian Information Commissioner
[REDACTED]

11 April 2022

Dear Mr Bluemmel,

Inquiry into Children Affected by Parental Incarceration

The Legal and Social Issues Committee (Legislative Council) at the Parliament of Victoria is conducting an inquiry into the children of imprisoned parents. The Committee will investigate the adequacy of policies and services to assist the children of imprisoned parents in Victoria, with particular reference to:

- (a) the social, emotional and health impacts on affected children;
- (b) what policies exist and what services are available, including consideration of those in other jurisdictions;
- (c) how effective these services are, including —
 - (i) consideration of evaluation of work already done in this area; and
 - (ii) identifying areas for improvement.

Over the course of its research, the Committee has heard evidence that privacy legislation and limits on data access can be a significant barrier to inter-departmental initiatives aimed at supporting children impacted by parental incarceration. This was discussed at public hearings by Professor Susan Dennison, Professor Nancy Loucks OBE, and Dr Catherine Flynn. Their respective transcripts will be made available online within a week at <https://parliament.vic.gov.au/lsc-lc/article/4832>.

To help the Committee understand the privacy framework for inter-departmental data sharing initiatives, I would like to seek your guidance around the following questions.

1. What are the core legislative provisions or policies impeding inter-departmental data sharing arrangements?
 - a. What additional complications arise when considering data from a family unit (ie. linking a parent's information with their child's information)?
2. What are the core legislative provisions or policies supporting or enabling inter-departmental data sharing arrangements?
3. What examples in the Victorian government exist of functional and robust multi-agency data sharing arrangements?

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Legal and Social Issues Committee



I would be grateful for a response by **Friday 29 April 2022** to help inform our work going forward. We are keen to ensure that there are no barriers to protecting vulnerable children and would greatly appreciate your insight and advice.

If you would like to discuss this request further, please feel free to contact our Committee Manager Lilian Topic on (03) 8682 2869, or at [CIPinquiry@parliament.vic.gov.au](mailto:CIInquiry@parliament.vic.gov.au).

I look forward to your response, and thank you for your consideration.

Yours sincerely,



FIONA PATTEN, MLC
CHAIR

28 April 2022

Ms Fiona Patten MLC
Chair
Legal and Social Issues Committee
Parliament of Victoria

By email only: CIPInquiry@parliament.vic.gov.au

Dear Ms Patten

Inquiry into children affected by parental incarceration

Thank you for contacting the Office of the Victorian Information Commissioner (**OVIC**) regarding the Legal and Social Issues Committee's inquiry into children affected by parental incarceration (**inquiry**).

As you know, my office has combined oversight of information privacy, information security and information access administering both the *Privacy and Data Protection Act 2014 (Vic)* (**PDP Act**) and the *Freedom of Information Act 1982 (Vic)*.

Our responses are focused on the interaction between the PDP Act and sharing personal information. The handling of health information, which may be relevant to this inquiry, is regulated under the *Health Records Act 2001* which is administered by the Health Complaints Commissioner.

Responses to your questions are set out below for your consideration.

1. What are the core legislative provisions or policies impeding inter-departmental data sharing arrangements?

Privacy law is often incorrectly perceived as a barrier to information sharing. The 10 Information Privacy Principles (**IPPs**) in the PDP Act, which are the foundation of privacy law in Victoria, set out the minimum standard for how public sector organisations (**organisations**) can collect, use and disclose personal information. While the IPPs do limit information sharing to specified purposes, in OVIC's experience, the principles-based approach in the PDP Act can accommodate a wide range of information handling practices that organisations need to engage in to achieve their objectives in a privacy-enhancing manner.

The misconception of privacy law as a barrier can create a risk-averse culture to information sharing in an organisation, particularly where the organisation finds it difficult navigating the interaction of privacy law with its enabling legislation. This misconception can be addressed in several ways within organisations, including implementing a comprehensive privacy training and awareness program for staff and having a robust governance and accountability framework that supports a culture of responsible information handling practices across the organisation.

One main legislative barrier to information sharing may be specific secrecy and confidentiality provisions in an organisation's enabling legislation that prohibit it from using or disclosing information, even where it

would otherwise be permitted under the PDP Act. These provisions effectively override the PDP Act and can result in a penalty if breached.

Please note we cannot comment on whether there are pieces of legislation or departmental policies that impede information sharing between organisations without knowledge of specific legislative provisions or policies that have been identified as doing so.

a. What additional complications arise when considering data from a family unit (ie. linking a parent's information with their child's information)?

Linking information about family members raises complex issues, particularly when those individuals are vulnerable or where sensitive information is involved. The extent of the complexity will depend on a range of factors including the context in which the information is used, the amount of information involved, who will have access to the information, and any other privacy and security risks associated with handling the information.

For instance, it will be necessary to consider the legal authority on which an organisation is relying to link the information of a parent and their child. If the organisation is relying on the consent of the parent and the child, then consideration may need to be given to the validity of the consent, particularly where the parent proposes to provide consent on behalf of the child. Further, where a consenting child is a minor, their capacity to understand the implications of agreeing to their information being linked to that of their parents is likely limited.¹

Where the personal information includes sensitive information², there are specific information handling requirements that will need to be considered. Sensitive information is afforded stronger protections under the PDP Act due to the inherent risks to individuals' privacy and other human rights associated with its collection, use and disclosure, such as the risk of discrimination. IPP 10 sets out the requirements organisations must comply with when handling sensitive information.³

Additionally, an organisation will need to ensure the collection of sensitive information complies with the requirements for collecting personal information set out in IPP 1. Further, IPP 2.1(a) places greater restrictions on the handling of sensitive information by requiring any reasonably expected secondary uses and disclosures of sensitive information to be *directly* related to the primary purpose for collecting the information.

Any inter-departmental information sharing arrangement will need to comprehensively assess all the various factors to ensure that the collection, use and disclosure of personal information of a family unit occurs in a way that protects the privacy of each individual concerned.

2. What are the core legislative provisions or policies supporting or enabling data sharing arrangements?

The IPPs are generally flexible and broad enough to support the range of information sharing arrangements into which organisations may enter. Organisations can either share information for the primary purpose for which the information was collected or rely on one of the eight secondary permitted purposes set out in IPP 2.1 to share information.

¹ For consent to be valid, it must be voluntary, informed, current, specific and the relevant individuals must have capacity to consent. For detailed guidance on the elements of consent, see the 'Key Concepts' chapter of OVIC's Guidelines to the Information Privacy Principles available at <https://ovic.vic.gov.au/book/key-concepts/#Capacity>.

² Sensitive information is defined in Schedule 1 of the PDP Act.

³ For detailed guidance on sensitive information see OVIC's Guidelines to the Information Privacy Principles available at: <https://ovic.vic.gov.au/book/ipp-10-sensitive-information/>.

The PDP Act also contains ‘flexibility mechanisms’ that enable organisations to depart from one or more IPPs where it is in the public interest to do so, on approval of the Information Commissioner.⁴ These mechanisms include:

- public interest determinations;⁵
- temporary public interest determinations;⁶ and
- information usage arrangements.⁷

Organisations may also apply to the Information Commissioner for certification that an act or practice of their organisation is consistent with the IPPs.⁸

Since these mechanisms were introduced in the PDP Act in 2014, OVIC and its predecessor, the Office of the Commissioner for Privacy and Data Protection, have received only five applications from organisations wishing to utilise these mechanisms. This demonstrates that there are few instances in which the IPPs do not already permit organisations to handle personal information in the way they need to perform their functions.

OVIC has a number of resources available on its website to assist organisations to share personal information.⁹ My office also regularly consults with organisations on their information sharing initiatives to provide guidance on how personal information can be appropriately shared in the circumstances, and we welcome the opportunity to assist organisations in this way.

3. What examples in the Victorian Government exist of functional and robust multi-agency data sharing arrangements?

Legislative information sharing schemes that have been introduced in Victoria to support inter-departmental information sharing for specific purposes.

Family Violence Information Sharing Scheme

The Family Violence Information Sharing Scheme (**FVISS**) commenced in 2018 and was established by Part 5A of the *Family Violence Protection Act 2008 (FVP Act)*. The scheme authorises information sharing entities (**ISEs**) to share confidential information for the purposes of assessing or managing family violence risk. To facilitate the scheme, the FVP Act amended the PDP Act to provide limited exceptions or modifications to the IPPs.¹⁰

Child Information Sharing Scheme

The Child Information Sharing Scheme commenced in September 2018 and was created by the *Children Legislation Amendment (Information Sharing) Act 2018*. It enables ISEs prescribed by the *Child Wellbeing and Safety (Information Sharing) Regulations 2018* to share confidential information to support the wellbeing and safety of children. Broadly, the scheme is designed to improve early identification of risk to children’s safety and wellbeing, increase collaboration between services involved in supporting children

⁴ For detailed guidance on the flexibility mechanisms see OVIC’s Guidelines to public interest determinations available at https://ovic.vic.gov.au/wp-content/uploads/2018/07/Guidelines_to_Public_Interest_Determinations.pdf. See also applications from organisations to depart from the IPPs published on the OVIC website here <https://ovic.vic.gov.au/privacy/applications-to-depart-from-information-privacy-principles/>.

⁵ Sections 29-36 PDP Act

⁶ Sections 31-47 PDP Act.

⁷ Sections 43-54 PDP Act.

⁸ Section 55 PDP Act.

⁹ <https://ovic.vic.gov.au/privacy/information-sharing-and-privacy/>.

¹⁰ Detailed guidance on the interaction of the Family Violence Information Sharing Scheme with the PDP Act is available on the OVIC website here: <https://ovic.vic.gov.au/privacy/family-violence-information-sharing-scheme-and-privacy/>.


and families, and promote more effective intervention and integrated service provision. As with the FVISS, the scheme only provides limited exceptions or modifications to the IPPs and is intended to operate within existing privacy obligations under the PDP Act.¹¹

Risk Assessment and Management Panel Program Information Usage Arrangement

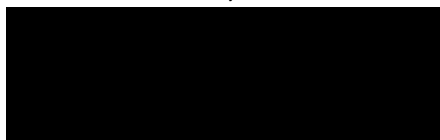
The Risk Assessment and Management Panel (RAMP) information usage arrangement (**IUA**) (a flexibility mechanism issued under the PDP Act) was an agreement between the Department of Justice and Community Safety, the former Department of Health and Human Services, and Victoria Police that came into effect in March 2016. The IUA was designed to enhance the parties' ability to share information to assist victims of family violence. Following the introduction of the FVISS and the CISS, the parties to the IUA determined it was no longer necessary to rely on the arrangement to share information as the schemes provided a strong authorising environment for family violence risk assessment and management practice in Victoria. Consequently, the IUA expired in June 2021.

Conclusion

Thank you once again for seeking our guidance on the relationship between privacy law and information sharing in the public sector. My office will watch the progress of the inquiry with interest and looks forward to any further opportunities to provide input.

If you would like to discuss further, please do not hesitate to contact me directly or my colleague Anita Mugo, Senior Policy Officer 

Yours sincerely



Sven Bluemmel
Information Commissioner

¹¹ Detailed guidance on the interaction of the Child Information Sharing Scheme with the PDP Act is available on the OVIC website here: <https://ovic.vic.gov.au/privacy/child-information-sharing-scheme-and-privacy/>.

Appendix C

Jurisdictional comparison

This Appendix addresses part (b) of the Terms of Reference relating to ‘what policies exist and what services are available, including consideration of those in other jurisdictions’.

Table 1 below outlines policies relating to children affected by parental incarceration in Victoria and other jurisdictions in key areas addressed by this report.

The table is not intended to be an exhaustive list of policies and procedures in this area. Rather it is a summary of the evidence received relating to other jurisdictions and the Committee’s own research.

Table 1: A jurisdictional comparison of policies for children affected by parental incarceration

Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
Victoria	Corrections Victoria conducts a prison reception assessment interview which asks if an inmate has children, their ages, if the prisoner has legal custody or whether they are the primary caregiver. In addition, the interview asks if the prisoner is pregnant. ¹	No Government body systemically considers or coordinates policy issues regarding children affected by parental incarceration in Victoria. ²	<p>Police must contact Department of Families, Fairness and Housing at the point of arrest if the child is at risk of harm. This may include if there is no visible carer. Police may not always ask offenders about children.</p> <p>When considering bail, a decision maker must consider ‘surrounding circumstances’ which can include dependent children.</p> <p>In sentencing, it is up to the discretion of judge to consider dependent children.³</p>	<p>The Victorian Government funds programs administered by the Department of Families, Fairness and Housing and Corrections Victoria and non-government organisations including:</p> <ul style="list-style-type: none"> • early parenting support; which assists mothers caring for children while incarcerated • Living with Mum Program; which assists mothers who give birth in prison to have their child live in prison with them. The Program operates in two facilities. • Family Visits; which allows female prisoners to connect with children via video calls.⁴ <p>SHINE for Kids is funded to provide programs, including:</p> <ul style="list-style-type: none"> • child-parent activity days • supported transport • supported prison visits • Ride By Your Side • RISE education program.⁵

1 Commissioner Larissa Strong, Commissioner, Corrections Victoria, public hearing, Melbourne, 9 May 2022. *Transcript of evidence*, p. 55.

2 VCROSS, *Submission 28*, p. 8.

3 Parliamentary Budget Office, *Incarcerated parents and their children: Impacts and support programs*, Parliament of Victoria, East Melbourne, 2022, p. 8.

4 *Ibid.*, p. 12.

5 SHINE for Kids, *Submission 19*, p. 15.



Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
New South Wales	<p>Corrective Services NSW has an inmate screening questionnaire upon entering custody. The questionnaire asks offenders whether they have dependent children and the age of those children.⁶</p> <p>The Parliament of New South Wales Committee on Children and Young People has recommended that the NSW Department of Communities and Justice maintain a consistent dataset or data system on all children whose parents are in prison.</p> <p>A further recommendation states that the data should be shared across the Department, and with other Departments and non-government service providers, where appropriate, to develop and support policies and programs that focus on children of imprisoned parents.⁷</p>	<p>Corrective Services NSW has a Children and Families of Offenders Steering Committee to coordinate policy and liaise with agencies and the public.⁸</p>	<p>Upon the arrest of a parent, if a child is present, NSW police should wait for the arrival of an alternative carer, or if not available contact the Department of Family and Community Services.⁹</p> <p>When considering sentencing, judges may take into account the hardship to family and dependants only in 'highly exceptional circumstances'.</p> <p>When sentencing a female offender, a judge may take into account pregnancy, young babies and the effect of imprisonment on the child.¹⁰</p>	<p>Corrective Services NSW facilitates visits between incarcerated parents and children where possible. Other initiatives include:</p> <ul style="list-style-type: none"> family friendly facilities and facilitation of video chats child visiting days, with each centre having its own schedule a mothers and children's program at one facility which allows children to reside with their mother at the facility full time up to 6 years old.¹¹ <p>The NSW Government funds a non-government organisation, the Community Restorative Centre, to provide financial assistance to eligible applicants to meet travel costs associated with prison visits. The Community Restorative Centre also provides information about prison visits, including via an App.</p> <p>Corrections NSW operates a Family, Friends and Children's Visitor Support Service at a number of correctional facilities.</p> <p>(continued)</p>

⁶ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, June 2022, pp. 2-3.

⁷ *Ibid.*, p. 55. Note: the New South Wales Government is required to respond to the recommendations of the Committee's recommendations by 22 December 2022.

⁸ NSW Department of Corrections, Submission to the NSW Parliament's Joint Committee on Children and Young People's Inquiry into Support for Children of Imprisoned Parents in NSW, *Submission 20*, p. 3.

⁹ New South Wales Police, *New South Wales Police Force Handbook*, Handbook, 2014, p. 32.

¹⁰ Judicial Commission of New South Wales, *Sentencing Bench Book: [10-490] Hardship to family/dependants*, 2022, <https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/subject_index.html> accessed 12 July 2022.

¹¹ Parliament of New South Wales, Committee on Children and Young People, *Support for children of imprisoned parents in New South Wales*, pp. 4-12.

Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
New South Wales (continued)				<p>In addition SHINE for Kids, facilitates programs at some correctional facilities including, but not limited to:</p> <ul style="list-style-type: none"> • child-parent activity days • storytime • keeping us together • playgroups • Stay Together, Play Together • Ride by Your Side • RISE education program.¹²

¹² Transforming Corrections to Transform Lives, *New South Wales Programs, 2020*, <<https://www.transformingcorrections.com.au/new-south-wales-programs>> accessed 23 June 2022.



Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
South Australia	Upon entering prison, women are asked if they have children, and if so, whether they are safe, if the children are alone, or if they need support. ¹³	The South Australian Department for Correctional Services undertook to establish a protocol between the Department for Child Protection to focus on child/carer residential arrangements at the Adelaide Women's Prison and reunification processes involving children in state care. ¹⁴	In relation to arrest procedures, South Australia Police 'take all steps to ensure that children are not present during their parent's arrest.' ¹⁵ Child protection workers may accompany police when they know the primary carer is being arrested. ¹⁶ Bail authorities may consider the impact of bail on a person's child as a relevant matter and as grounds for review of a bail decision. ¹⁷ In relation to sentencing, there are no obligations to consider the interests of children in South Australia's <i>Sentencing Act 2017</i> . A judge may consider the defendant's general character and general background. ¹⁸	The South Australian Department of Correctional Services provides a number of initiatives for women prisoners with children. These include: <ul style="list-style-type: none"> • Mum's Voice program • a family visits playground • special events for visitors on holidays such as Christmas and mother's day • additional visiting hours for occasions where there is a dependant infant or a child is having separation issues.¹⁹ Social workers are able to assist with the care and placement of children while a primary carer is in prison. This can include assistance with contacting other support agencies. ²⁰

¹³ South Australian Department of Corrections, *Women with Infants and Children*, 2022, <<https://www.corrections.sa.gov.au/prison/women-prisoners-with-children/women-prisoners-with-infants-and-children>> accessed 21 June 2022.

¹⁴ South Australian Department of Correctional Services, *Stronger Together: Safe Children and Strong Families, 2017-2020*, Government of South Australia, Adelaide, 2017, p. 14.

¹⁵ Commissioner for Children and Young People South Australia, *Submission 15, Attachment 1*, p. 48.

¹⁶ Leigh Garrett, Chief Executive Officer, OARS Community Transitions, public hearing, Melbourne, 9 May 2022, *Transcript of evidence*, p. 4.

¹⁷ South Australian Commissioner for Children and Young People, *Join the Dots: Considering the impact of parental incarceration on children and young people*, 2022, p. 21.

¹⁸ South Australian Commissioner for Children and Young People, *Join the Dots: Considering the impact of parental incarceration on children and young people*, 2022, p. 20.

¹⁹ South Australian Department of Correctional Services, *programs for prisoners with children*, 2022, <<https://www.corrections.sa.gov.au/prison/women-prisoners-with-children/programs-and-opportunities-for-women-prisoners-with-children>> accessed 7 July 2022.

²⁰ South Australian Department of Correctional Services, *women prisoners with infants and children*, 2022, <<https://www.corrections.sa.gov.au/prison/women-prisoners-with-children/women-prisoners-with-infants-and-children>> accessed 7 July 2022.

Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
Queensland	<p>According to Transforming Corrections to Transform Lives,</p> <p>'At the moment we do not record that at the corrections level in terms of who is coming into prison, whether or not they have children and how many children they have.'²¹</p> <p>'there is also a reluctance to share information across agencies to assist case planning.'²²</p>	<p>According to Transforming Corrections to Transform Lives, there is 'a siloing of services and government practices' as well as difficulties in accessing services across single or multiple departments and agencies.²³</p>	<p>The Queensland Police Service Operational Procedures Manual, Chapter 3, Prosecution Process, section 3.5.10 'making an arrest' contains no mention of consideration of the children of the arrestee at the point of arrest.²⁴</p> <p>The Queensland <i>Penalties and Sentences Act 1992</i> s 9 <i>Sentencing Guidelines</i> does not make provision for consideration of the parental status of an offender when considering sentencing.²⁵</p>	<p>A number of programs are provided by SHINE for Kids, including:</p> <ul style="list-style-type: none"> • keeping us together • Child/Parent Activity Days • playgroups • storytime • Stay Together, Play Together • Ride By Your Side • RISE education program.²⁶ <p>The organisation Sisters Inside also provides child and parenting support to incarcerated women.</p>

21 Professor Susan Dennison, Director, Transforming Corrections to Transform Lives, Griffith Criminology Institute, Griffith University, public hearing, Melbourne, 30 March 2022, *Transcript of evidence*, p. 29.

22 Ibid.

23 Ibid.

24 The Queensland Police Service, *Operational Procedures Manual, Chapter 3, Prosecution Process, section 3.5.10: making an arrest*, Queensland Police Service, Queensland, 2022, p. 35.

25 *Penalties and Sentences Act 1992* (QLD) s 9.

26 Transforming Corrections to Transform Lives, *Queensland Programs*, 2020, <<https://www.transformingcorrections.com.au/queensland-programs>> accessed 23 June 2022.



Jurisdiction	Collection and use of data	Leadership	Consideration of the child in the criminal justice pathway	Maintaining connections
New Zealand	<p>A paper by the New Zealand Government's Social Policy and Research Evaluation Unit gave estimates of the number of children affected by parental incarceration based on studies of prison populations with limited sample sizes.²⁷</p> <p>The New Zealand Department of Corrections Prison Operation Manual does not specify whether prisoners are asked about their parental status in their induction interview.²⁸</p>	<p>The New Zealand <i>Children's Act 2014</i> legislates a cross-departmental approach to supporting children and young people which is predominantly led by Oranga Tamariki – Ministry for Children. As part of the responsibilities, each of the relevant agencies must have child protection policies.</p> <p>Oranga Tamariki has been introducing cross-departmental initiatives to provide holistic support services for children and families.²⁹</p>	<p>The New Zealand Police Manual notes that when planning arrest, police should plan for the safety of children and young people. This includes assigning a dedicated person to be responsible for ensuring that Police care and protection duties to children or young people are met if children or young people are present when any person is arrested or detained, or a person being arrested or detained has responsibilities for the care and protection of any child or young person.³⁰</p> <p>In relation to sentencing, the <i>Sentencing Act 2002</i> (NZ) does not contain provisions which allow for the consideration of the parental status to be taken into account as a mitigating factor.³¹</p>	<p>The New Zealand Department of Corrections has provided support for parenting initiatives in correctional facilities, including programs run by:</p> <ul style="list-style-type: none"> Brainwave Trust, which teaches the critical importance of the first thousand days of life. Storytime Foundation, which focuses on enhancing the bond between children and parents in prison through reading and storytelling.³² <p>Women who give birth while serving a custodial sentence, or who are the primary carer of a baby under 24 months prior to incarceration, may care for their baby in prison until the baby is 24 months old.³³</p> <p>A non-government organisation, Pillars, provides wraparound support services to children affected by parental incarceration, including advocacy, education, resources and support.</p> <p>This may include housing, work and income as well as counselling and rehabilitative programs. Pillars also provides information on Corrections processes and child-centred information on visiting prison and caring for children of imprisoned parents.³⁴</p>

²⁷ New Zealand Government, *What works: Improving outcomes for children with a parent in prison*, Social Policy Evaluation and Research Unit (Superu), Wellington, 2015, p. 2.

²⁸ New Zealand Department of Corrections, *Prison Operations Manual, Induction Interview*, (n.d.), <https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/1.04-Induction-interview> accessed 7 July 2022.

²⁹ Oranga Tamariki, *Requirements of the Children's Act, 2017*, <<https://www.orangatamariki.govt.nz/working-with-children/childrens-act-requirements>> accessed 7 July 2022; Oranga Tamariki, *Briefing to the incoming Minister, 2020*, <<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Corporate-reports/BIM/Briefing-to-the-Incoming-minister-for-Children-2020.pdf>> accessed 7 July 2022.

³⁰ New Zealand Police, *Manual: Arrest and detention*, (n.d.), <<https://fyi.org.nz/request/AT27/response/15860/attach/4/Arrest%20Detention%20Policy.pdf>> accessed 7 July 2022. Note: the source is the result of a Freedom of Information Request and may not be current.

³¹ *Sentencing Act 2002* (NZ) s 9.

³² Department of Corrections, *Ara Poutama Aotearoa, prisons operations manual, women and pregnant prisoners, 2021*, <https://www.corrections.govt.nz/news/2021/parenting_programme_expanded> accessed 7 July 2022.

³³ *Ibid.*

³⁴ Pillars, *Our programs*, (n.d.), <<https://www.pillars.org.nz/our-programmes>> accessed 7 July 2022.

Appendix D

Stakeholder roundtable discussion and outcomes

Legislative Council Standing Committee on Legal and Social Issues
Inquiry into children affected by parental incarceration

Roundtable discussion
Monday 23 May 2022
12:30 pm – 5.00 pm

D

Item	
Introduction	Fiona Patten, Committee Chair
Attendees	<p><i>Members of the Legal and Social Issues Committee</i></p> <ol style="list-style-type: none"> 1. Fiona Patten, Committee Chair 2. Cathrine Burnett-Wake, Committee Member 3. Tania Maxwell, Committee Member <p><i>Stakeholder representatives</i></p> <ol style="list-style-type: none"> 4. April Long, National Operations Manager, SHINE for Kids (via Zoom) 5. Glen Fairweather, General Manager, Prison Fellowship Australia 6. Abigail Lewis, Senior Policy and Advocacy Manager, VACRO 7. Lisa D'Onofrio, Community Arts Worker and Read Along Dads Facilitator (via Zoom) 8. Hilary Glaisher, Policy Adviser, Safe and Equal 9. Rachael Hambleton <p><i>Committee Secretariat</i></p> <ol style="list-style-type: none"> 10. Lilian Topic, Committee Manager 11. Joel Hallinan, Research Officer 12. Meagan Murphy, Research Assistant 13. Cat Smith, Admin Officer (via Zoom)
Notes	
Discussion	Members of the roundtable introduced the key issues for them and their organisation in relation to supporting children affected by parental incarceration. The group discussed everyone's priorities and goals, identified the overlap in our concerns, and refined the key priorities that the group agreed should be the basis of policy and practice in relation to children of incarcerated parents.
Priorities identified	<p>SHINE for Kids—April Long</p> <ol style="list-style-type: none"> 1. The foundational principle should be the best interest of the child. This should happen from the point of arrest, through sentencing, incarceration and release and reunification. 2. SHINE In-Visit days should be available in all Victorian prisons. 3. Data needs to identify the children of incarcerated parents. <p>April also noted the policy recommendations from Recommendation 44–48 in SHINE's submission and Recommendations 2–6 regarding program recommendations.</p> <p>Prison Fellowship Australia—Glen Fairweather</p> <ol style="list-style-type: none"> 1. Arrest procedures need to be reviewed to protect any children that may be present at the scene. This may include considering whether additional support needs to be present or procedures and practices should be altered to reduce trauma for children present. 2. Prison visits can be positive or traumatic. Greater education is required with gatehouse officers to ensure that families are not treated as though they are criminals or inferior. A greater balance needs to be struck between managing security and being child or family friendly. 3. The data gap needs to be addressed. The lack of transparency means that on reception into prison, there is a reluctance to share information as they are unsure how that may be used. 4. Positive support is needed. Whether it is the sole responsibility of the government system or it could be appropriately provided through social/community supports, it can make all the difference. Greater resourcing is needed in this space. <p>Glen noted that Corrections Victoria has no input up to the point of reception into prison and has minimal impact afterwards, which restricts their ability to support people affected by the criminal justice system.</p> <p>(continued)</p>

Notes

Priorities identified (continued)

VACRO—Abigail Lewis

1. A prescribed role for the Department of Families, Fairness and Housing (DFFH) to take responsibility for families impacted by one person’s incarceration. Within the role:
 - DFFH would have oversight over and responsibility for this cohort, holding centralised data to inform service design. This data would be collected, and these services delivered, by well-resourced specialist family services providers.
 - DFFH should lead on a joint protocol with Victoria Police, the court system, Child Protection and Corrections Victoria. The joint protocol would inform a childaware and trauma-informed practice through the point of arrest, sentencing, incarceration, and through to release planning and post-release support.
 - Resourcing should be made available to support families during the incarceration process—this resourcing should be allocated to specialist family support organisations with criminal justice expertise.

Lisa D’Onofrio

1. Data collection needs to be friendly and accessible. Surveys can be intimidating to people and consideration needs to be made for relationship-building.
2. Programs need to be consistent and funded for a long time so that people who are incarcerated can develop trust and familiarity with the processes. Read Along Dads or similar programs should be available in all prisons including youth detention and remand.
3. Relationships need to be built when people exit prison, however many people are not prepared for what the relationship will look like. Greater work needs to be done to encourage re-bonding before people exit prisons.
4. There are very unnatural conditions in prison which can put an intense amount of pressure on conversations between parents and children. Additional activities, including supported play, nature play, weekly activity packs, should be prioritised to help the relationship progress more naturally. Informal peer support should also be encouraged to help fathers learn from and teach each other.

Safe and Equal—Hilary Glaisher

1. There is a significant need for bail reform as many women are on remand, unsentenced, and this is increasing the number of children left without primary carers.
2. Bangkok Rule 64 should be implemented to encourage courts to avoid custodial sentences for primary carers as a priority. Incarceration should only be used as a last resort.
3. Data collection needs to be prioritised to understand who the children impacted by this issue are.

Rachael Hambleton

1. Ensuring that reform to address immediate problems does not hinder improvements to the system.
2. Addressing the underlying factors that contribute to disadvantage—housing, mental health etc.
3. Ensuring that data collection is appropriate and that it doesn’t serve as an excuse to provide more funding to the organisations causing systemic harm.
4. Facilitating and supporting strong communities reduces crime—holistic practices which can genuinely improve outcomes and reduce crime.



Priorities	Guiding principles
The best interests of the child must be central	<ul style="list-style-type: none"> • Best interest principles (as stated in section 10 of the <i>Children, Youth and Families Act 2005</i> (Vic)) should be at the core of all decisions from the point of arrest to post-release. • The best interests of the child should inform policy-making in Corrections Victoria and related departments. • Trauma-informed and child-aware practices should be developed and implemented at all stages where children of incarcerated parents intersect with the justice system. • There should be consideration of who decides the best interests of the child, in line with the best interest principles in section 10 of the <i>Children, Youth and Families Act 2005</i> (Vic). • The voice of the child should be central to all decision points. • Impacts on children should be a central consideration of any sentencing decisions. Consider reviewing/introducing Corrections Victoria child-aware decision-making or policy-making matrices. • There must be cross-departmental cooperation and it must support the best interests of the child.
Facilitating and maintaining meaningful family connections	<ul style="list-style-type: none"> • Parent and child contact including visitation and support. • Availability of visitation should be the default. • Removing or restricting contact should not be used as a punitive measure against incarcerated parents. • When decisions are made about which location a parent should be accommodated at, the impact of the family should be a key consideration. This includes initial location and any later changes to location. • Private companies should not profit from the cost of phone calls by family members impacted by incarceration. Phone calls should be free and time limits should be extended significantly. Email, postage and any other forms of contact should be free for people incarcerated. Family Links/instant messaging capacity should be considered to ensure people can connect to family members outside of prison. • Video visitation should supplement, not reduce, in-person visits. • More creativity should be brought to visitation – consideration of longer visits, more natural visiting activities, weekend visits. • Facilitated and supported transport should be available for all prisons.
Develop a line of sight/make children visible in the system	<ul style="list-style-type: none"> • Appropriate data collection and identification. • Early identification of children who could benefit from support. • Who should collect this data? How do we ensure transparency and build trust? • Should this be the responsibility of the Government or another separate organisation? • Data collection cannot solely be the responsibility of a government department as there is significant mistrust. • Consent must be informed and appropriately obtained. Carers may need to be looped in to ensure the child's rights are protected. • The Department of Families, Fairness and Housing should have a prescribed role in this space.
Sustainable funding	<ul style="list-style-type: none"> • Sustained, long-term funding should be committed to programs. • Improved workplace retention. • Familiar faces conducting programs. • Funding for qualified therapeutic and social support professionals.
Oversight and accountability	<ul style="list-style-type: none"> • A whole-of-Government approach should be led by a specific new agency/team within the Department of Families, Fairness and Housing.
Training and professional development	<ul style="list-style-type: none"> • For professionals interacting with families impacted by the criminal justice system, more appropriate training and awareness is needed to ensure appropriate practices are in place. This includes police, support workers, and members of the judiciary.

Priorities	Guiding principles
Stigma and awareness	<ul style="list-style-type: none"> • Visibility over the number of people impacted by family member incarceration and impacts. • Facilitate and support strong communities. • Shift our discourse so that language and communications are accurate and unbiased.
Systems considerations (out of scope contributing factors)	<ul style="list-style-type: none"> • Increase of the population on remand due to reverse onus bail laws. • Intersection between disadvantage and incarceration—social determinants contributing to incarceration. • Reduced access to parole means that people leaving prison do not have appropriate support when reintegrating into the community.

D