

**Submission
No 17**

INQUIRY INTO CHILDREN AFFECTED BY PARENTAL INCARCERATION

Organisation: Victorian Association for the Care and Resettlement of Offenders
(VACRO)

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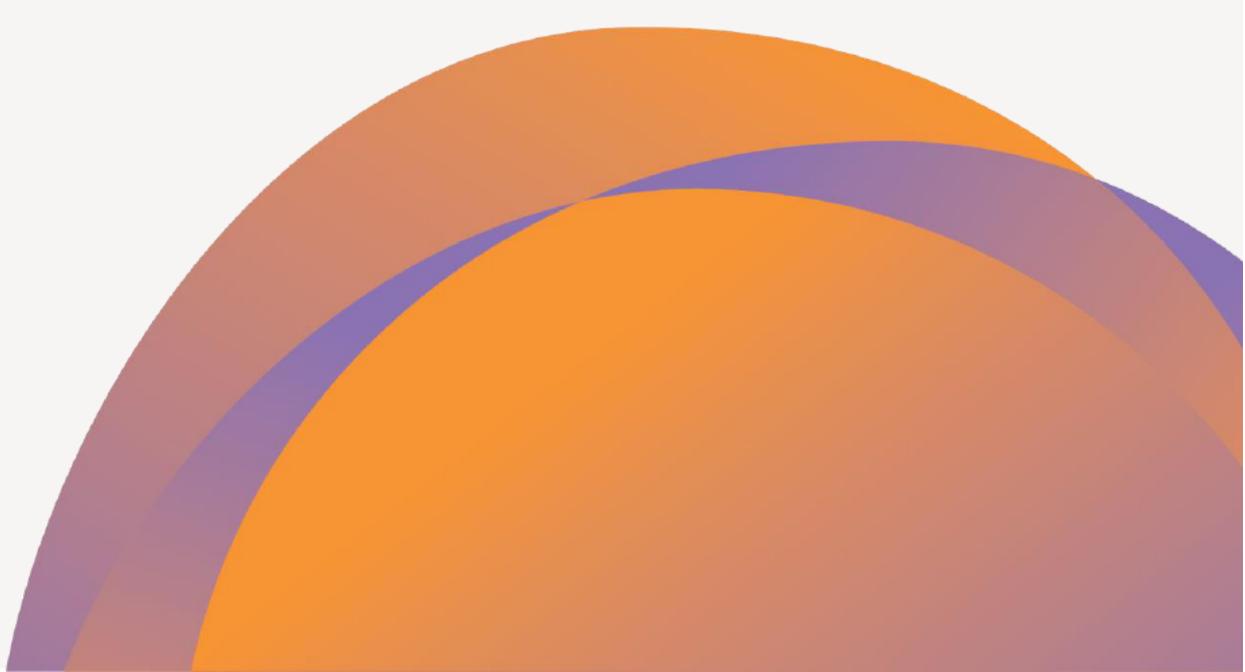
Inquiry into Children Affected by Parental Incarceration

VACRO Submission

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About VACRO

VACRO is an independent, non-profit organisation created in 1872. We support people in contact with the criminal justice system and their families to create new beginnings and stronger communities.

Our work provides the support people need to get their lives back on track and recognises the role all members of a community play in successful reintegration.

We provide programs in four broad categories:

- Returning to community: we deliver tailored pre-release support to adults in prison and provide a case manager to support people post-release.
- Strengthening family connection: we support family visits in prison, provide family counselling and provide specific assistance to Aboriginal families visiting their loved ones.
- Returning to work: we run two social enterprises to build job skills and connect Aboriginal people with employment pathways after prison.
- Supporting disability: we assist people with disabilities to navigate the criminal justice system.

VACRO's services provide practical support driven by long-term thinking. Our research, policy and advocacy work imagines a fairer future through systemic change. VACRO's work benefits individuals, their families, and whole communities.

VACRO welcomes the opportunity to submit to this review and appear at an associated public hearing. As Victoria's only specialist criminal justice reintegration service provider, and one of the only organisations in the state to provide services specifically for the children and families of people in prison, we believe that our expertise can have a significant impact on this Inquiry and on long-term outcomes for the families we support.

Introduction

Family matters, especially when times are hard. But for the most part, the justice system in Victoria leaves the children and families of people in prison to fend for themselves. We should support these families to stay connected to each other, strengthen their relationships, and thrive. People who leave prison with a strong family around them are more likely to be able to build a new life away from crime.

More than a third of people entering prison in Australia – and nearly half of Aboriginal and Torres Strait Islander peoples coming into prison – have dependent children in the community.¹ Having a parent in prison is considered an Adverse Childhood Experience, meaning that families affected by parental incarceration are likely to become more socially excluded than other households in the general population. These families can experience financial difficulties, practical challenges associated with visiting prison, stigma, and grief.

Maintaining relationships between people in prison and their families, where this is appropriate, can therefore benefit the whole family. It also increases the likelihood that the family member in the justice system will desist from crime after their release. Unfortunately, the police, the courts, and the correctional system do not currently provide adequate services for affected families.

Existing services like supported visiting, family counselling, parenting programs, and pre- and post-release programs have limited availability. The justice system needs to incorporate child-sensitive arrest protocols, pre-sentencing reports on family circumstances, recognition for incarcerated fathers, robust data collection, and the application of human rights. New initiatives must also be resourced from outside the justice system: family court supports, housing for affected families, and cross-sector collaboration.

VACRO's vision is for a justice system that supports the children and families of the people who move through it. 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.

From arrest to trial, from prison to re-entering the community post-release, children and families should have access to programs and services that strengthen their relationships with each other, promote desistance, and reduce intergenerational offending.

The scope of the Inquiry

VACRO's family-centred practice includes all types of family relationships, not just parent/child. This is because our work draws on the latest and most rigorous research on desistance and

¹ <https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/summary>

reintegration, which indicates that supportive family bonds of all types can provide the 'hook for change' that leads people to build new identities for themselves away from crime. We note that this Inquiry focuses specifically on the children of imprisoned parents, and we have structured our submission to reflect that. However, where it is important, we have included information and arguments related to other types of familial relationships. In general, we would encourage the Inquiry to expand its scope to consider other family members of people who are incarcerated, and to see families as holistic and complex units who can be supported to work together to achieve the best outcomes possible for them all.

VACRO's family services

Family Visits

The Family Visits Program operates at Dame Phyllis Frost Centre and Tarrengower Prison. VACRO's family workers facilitate video visits between prisoners and their families and provides visit planning and socio-emotional support to all parties before and after each call.

Strong family connections and positive new identities are important factors that can reduce a person's risk of re-offending and ease the transition from prison to community. Through regular, meaningful visits, the Family Visits Program offers a unique way for children to connect with their mothers, and for mothers to continue to play an important, hands-on role in their child's life. The program also facilitates stronger relationships between participants and primary carers, partners, and other family members.

Family Counselling

VACRO has delivered family counselling for over 20 years and currently operates two family counselling programs - the Parents and Families Engagement program, running at Judy Lazarus Transition Centre (JLTC) and Tarrengower Prison, and the Supporting Kids and Families program, running at Beechworth Correctional Centre.

Both programs are delivered by VACRO's specialist family therapists using a combination of individual and family-based therapeutic counselling sessions, parent-child interactions, and facilitated family meetings. The programs create a space for people to express their fears, work through their problems, and build resilience as they prepare for a family member's return from prison. Parents and Families Engagement also incorporates parent education and school holiday programs.

Supporting Kids and Families was introduced at Beechworth Prison during COVID restrictions and runs via video link, with a VACRO family counsellor based in Melbourne. This approach enables us to extend the reach of the program, and when participants are transferred to other prisons, the program is able to "follow" them to their new location, ensuring that their preparation for release is uninterrupted.

Aboriginal Family Visits

The Aboriginal Family Visits Program has also run for over 20 years and is available for families of people imprisoned at all Victorian adult correctional facilities. Many Aboriginal families are particularly impacted by distance and economic circumstances, which can further fray family relationships during imprisonment. This program provides travel and accommodation assistance to enable families to travel long distances to see their loved ones and keep that connection alive.

Other family services

In addition to our family-specific programs, our reintegration programs – ReLink and ReConnect – have a strong focus on strengthening relationships between prison leavers and their families. Our case managers make contact with family members of prison leavers pre-release and support healthy relationships post-release.

Our reintegration services are underpinned by comprehensive practice frameworks, including family inclusive practice. Our programs are trauma-informed, family violence aware and child centred.

VACRO's vision for children and families

Over the last year, VACRO has been translating our substantial research and program expertise into a coherent vision for how children and families should be supported during a loved one's journey through the criminal justice system. This vision spans from the point of arrest, through the court and prison systems, and back out into the community. Based on evidence from around the world, and VACRO's deep understanding of the criminal justice system, this vision lays out the roles that government and civil society must play to bring this vision to fruition.

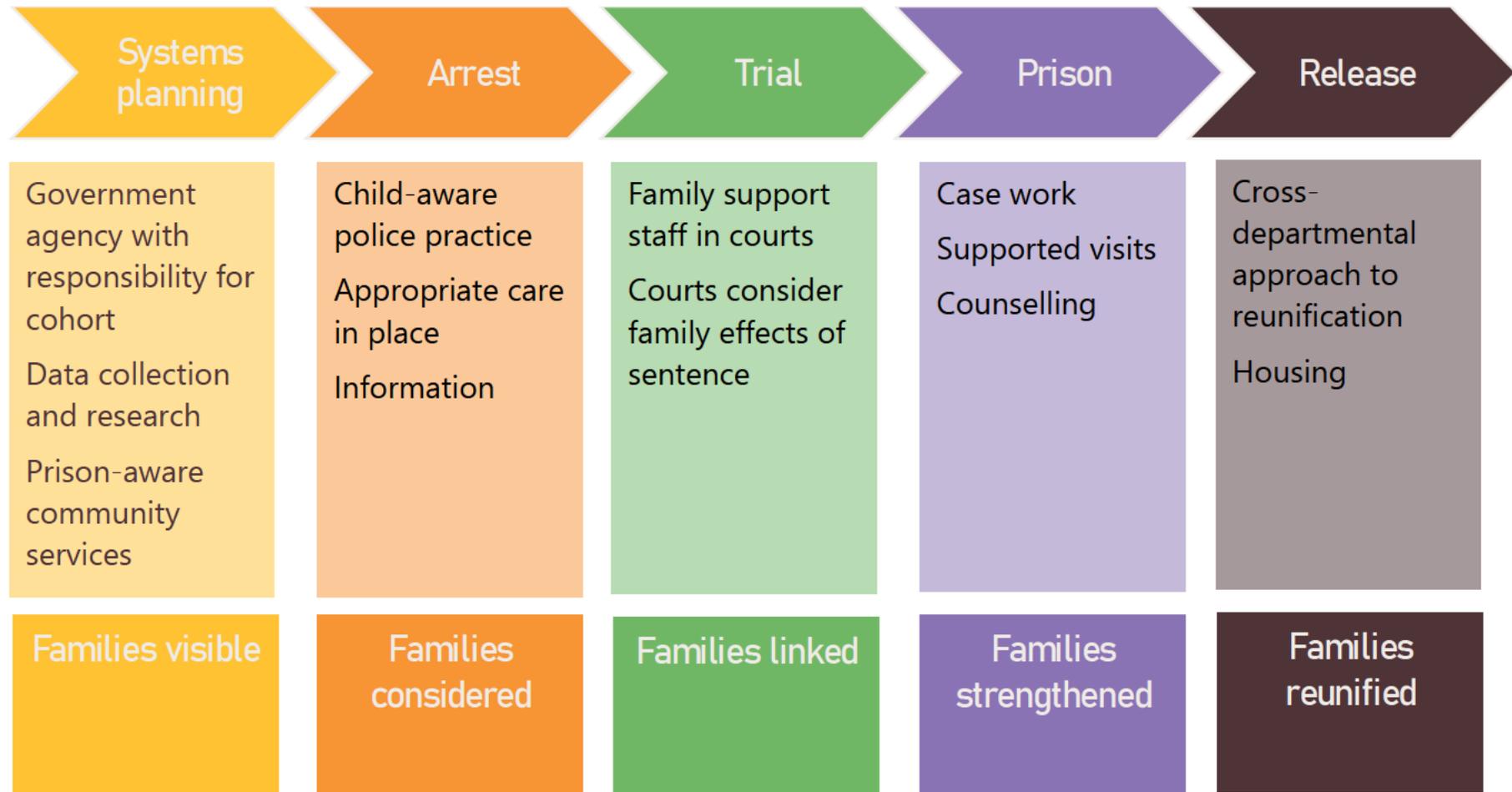
If the vision is implemented, it will lead to more stable families and stronger communities. The benefits for children are clear: they will have greater opportunity to live lives of meaning in a loving and supportive environment, reducing the risk that they themselves will end up in the criminal justice system. Our submission is grounded in this vision, so we have included its principles and our model below. Each subsequent section of the submission is connected to a stage in this model.

Principles

Policy and service intervention should span from arrest to post-release and should:

- Include justice involved people and their families.
- Encompass all relational models, not just parenting models, recognising all types of family.
- Protect and respect children's rights.
- Focus on reducing intergenerational offending.
- Be developed in collaboration with people who have lived experience of the justice system.

Model



Systems planning

The status quo

Monitoring and planning

The families and children of those impacted by the criminal justice system are not formally recognised in Victorian government policy. This problem is highlighted by two serious system failures:

1. 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.²
2. 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.

As a result, the Victorian government does not monitor this cohort, or include them 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.

Police policy and practice

Victoria Police rarely engage in child-aware practice at the point of arrest. Care planning for any dependent children in the immediate aftermath of an arrest is ad hoc, meaning that families are rarely linked to family services that can immediately support them and keep them informed about what happens next.

Court policy and practice

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.

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.

² Trotter, C., Flynn, C., Naylor, B., Collier, P., Baker, D., McCauley, K., Eriksson, A., 2015. The impact of incarceration on children's care: A strategic framework for good care planning. Melbourne: Monash University.

Prison policy and practice

Once their family member is in prison, families are once again left without information or a central point of contact to coordinate their interactions with the incarcerated family member. Unless they are able to engage with a specialist family support service like VACRO, they may not know where their family member is, how to contact them, or how to arrange visits.

For those families that have interactions with the Child Protection system, they discover that there is very little coordination between Child Protection staff and Corrections Victoria staff, leading to confusion and delays establishing contact visits.

For families of school-aged children, there is similarly very little if any communication between systems. Interim carers have the role of providing any feedback on schooling they receive from schools and children to the parent second hand, and the incarcerated parent has no opportunity to remain engaged in their child's progression through these formative learning years.

Phone calls and visits with their family member are prohibitively expensive and there is no one to support them to strengthen their relationships with each other. Often, family bonds break down, and by the time a person is released from prison, one of their most important protective factors against reoffending has been eroded.

Post-release policy and practice

For those families that do reunify after release, there is little to no support for this process and no central point they can turn to for help. Again, service fragmentation means that people with upcoming release dates cannot access housing suitable for their families because they don't yet have custody, but cannot get custody because they don't have suitable housing.

We don't always know what happens to our program participants after they are released and exit our services, because no data is collected on their outcomes.

Alternatives

Given that the children of incarcerated parents experience long-term adverse effects including an increased risk of their own criminalisation, and that family connectedness is recognised as a protective factor against recidivism, we strongly recommend that this be rectified. 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.

We recommend that the mandate sit within the Department of Families, Fairness, and Housing (DFFH) rather than the Department of Justice and Community Safety (DJCS) the infrastructure and expertise to provide services to vulnerable families is only found in the human services portfolio.

Importantly, the collection of linked data would facilitate new service responses that include all incarcerated parents and their children, rather than solely focusing on maternal incarceration. Such data could also identify local government areas where significant numbers of affected families reside, to support inter-departmental responses.

This government body should be responsible for funding, coordinating, and gathering data from services to this cohort. 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, as is explained throughout this paper. 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.

Recommendations

1: Designate a government body or agency within DFFH with the specific mandate to respond to families of people involved in the criminal justice system

- This body should sit alongside existing family services infrastructure and serve as the central point of contact for cross-department service responses.
- The body should take responsibility for funding and coordinating the provision of specialist family services by community organisations.

2. Mandate the collection by government of linked data to inform and organise an evidence-based process of research, policy development, and collaborative planning.

- The government body proposed in Recommendation 1 should collect this data.
- The body should also have a monitoring role, tracking progress over time against identified objectives.

Arrest

The status quo

Very little information is available about how children are treated, and their care managed, at the point of arrest. One study of incarcerated fathers in Victoria found that dependent children were present in around one third of their arrests, half of which took place in the family home and half of which involved force, a large number of police, or weapons.³ This study aligns with other Australian research which indicates that approximately half of the children of incarcerated fathers lived with their father at the time of his arrest.⁴

There are also a significant number of arrests where the arrestee has caring responsibilities for children who are not present at the time of arrest. In this situation, police tend not to inquire about or make arrangements for the care of those children. Of the fathers arrested in the Victoria study, 79% reported that police were aware or made aware of their children, but only one was asked about suitable care.

An agreement between the then-Department of Human Services, Child Protection, and Victoria Police sets out a range of responsibilities and protocols for situations where a child is at risk, including in "situations where a primary carer of dependent children is in custody and incapable of caring for their child during this period and there is no other suitable person willing or able to care for the child".⁵ Despite this agreement, the duty of care spelled out in the *Victorian Children and Young Persons Act 1989* is often contravened by current arrest procedures.

Interviews with police themselves have shown that attention to children's welfare at the time of arrest remains ad hoc and largely dependent on the discretion of individual police officers.⁶ In 2006 and then again in 2016, representatives of Victoria Police gave interviews to researchers in which they accepted that the Victoria Police Manual does not instruct them on how to inquire about or respond to an arrestee's parental status. They stated that they often assume other family members will take over the care responsibilities, and that they rarely check the suitability of any carers who

³ Bartlett, T.S., Flynn, C.A., & Trotter, C.J. (2018). "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: Northern Ireland Journal of Multi-Disciplinary Child Practice*, 24(2), 115-130. <https://doi.org/10.1080/13575279.2017.1420035>

⁴ Dennison, S., Stewart, A., & Freiberg, K. (2013). A prevalence study of children with imprisoned fathers: annual and lifetime estimates. *The Australian Journal of Social Issues*, 48(3), 339-362. <https://doi.org/10.1002/j.1839-4655.2013.tb00286.x>

⁵ Department of Human Services Child Protection and Victoria Police. (2012). Protecting Children: Protocol between Department of Human Services - Child Protection and Victoria Police [Internet]. Victorian Government. Available from: <https://www.dhhs.vic.gov.au/sites/default/files/documents/201706/Protecting-Children-CP-and-VicPol-protocol-2012.pdf>

⁶ Flynn, C.A., Naylor, B., & Fernandez Arias, P. (2016). 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*, 49(3), 351-369. <https://doi.org/10.1177/0004865815585390>

do step in.⁷ Even where police are able to refer families to services, these services are rarely specific to families in contact with the justice system and are often under-resourced in proportion to demand.

There is almost no evidence as to the social, emotional, or health impacts on children of witnessing parental arrest, and none in Australia. Limited research conducted in the United States indicates that witnessing arrest is associated with behavioural problems and is predictive of elevated post-traumatic symptoms.⁸ Children of imprisoned mothers reported “long term recall” of the trauma of arrest and displayed post-traumatic stress disorder symptoms that included flashbacks to the point of arrest.⁹ Children in the child protection system who had seen their parents get arrested were also more likely to have psychological trauma and posttraumatic stress disorder than other children in foster care.¹⁰

Alternatives

The status quo in Victoria resembles parental arrest procedures (or the lack thereof) around the world. There are few jurisdictions that have established best practice alternatives for arrests where children are present or where the individual arrested has dependent children.

One such jurisdiction is Sweden, where police have a formal responsibility to inquire after – and follow up on – the long-term care arrangements of the children of people they arrest. This takes the form of an interview at the police station which includes questions about care arrangements for children. The police then have a duty to inform Children’s Services if there are no long-term arrangements in place.¹¹

Some local jurisdictions in California in the United States have adopted formal joint protocols or working arrangements to safeguard children during and after parental arrest. Some of the measures employed under these 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

⁷ Flynn et al. (2016); Hannon T. (2006). Children: Unintended victims of legal process – A review of policies and legislation affecting children with incarcerated parents. Flat Out Inc. and VACRO. Available from: <https://www.vacro.org.au/Handlers/Download.ashx?IDMF=2e915d9f-c0ab-4088-b120-6a560a505e3a>

⁸ Phillips, S.D., & Zhao, J. (2010). The relationship between witnessing arrests and elevated symptoms of posttraumatic stress: Findings from a national study of children involved in the child welfare system. *Children and Youth Services Review*, 32(10), 1246–1254. <https://doi.org/10.1016/j.childyouth.2010.04.015>; Dallaire, D.H., & Wilson, L.C. (2009). The Relation of Exposure to Parental Criminal Activity, Arrest, and Sentencing to Children’s Maladjustment. *Journal of Child and Family Studies*, 19(4), 404–418. <https://doi.org/10.1007/s10826-009-9311-9>

⁹ Kampfner, C.J. (1995). Post-traumatic stress reactions of children of imprisoned mothers. In K. Gabel & d. Johnston (Eds.) *Children of incarcerated parents*. New York: Lexington Books.

¹⁰ Phillips et al. (2004). Parental arrest and children involved with child welfare agencies. *American Journal of Orthopsychiatry*, 74(2), 174-186.

¹¹ Mulready-Jones, A. (2011). Hidden children: a study into services for children of incarcerated parents in Sweden and the United States. *Winston Churchill Memorial Trust*.

and reporting procedures, and joint training of both child welfare and law enforcement officers.¹² In response to the promising results from the implementation of these protocols, the International Association of Chiefs of Police (IACP) in the United States produced a Model Policy for safeguarding children of arrested parents. Under the Model Policy, officers should be trained to “identify and respond effectively to a child...whose parent is arrested” whether or not that child is present at the time of arrest, and to minimise trauma and promote safety for the child following the arrest.¹³ The IACP now offers no-cost training and resources for law enforcement on mitigating the trauma experienced by children whose parents are involved with the police.¹⁴

Recommendations

3: Update the Victoria Police Manual to implement child-aware procedures during arrests

These procedures should include the following:

- Where possible, avoid forceful arrests in children’s presence.
- Consider the needs of children who are not physically present during the arrest.
- Establish primary carer responsibilities at the time of arrest.
- Give parents the opportunity to respond to and deal with their children at arrest.
- Allow arrestees to take part in the planning process for their children’s care.
- Avoid unnecessary placement of children in Child Protection custody.
- Provide information and referrals to family members.
- Make contact with the designated government body (see Recommendation 1) and refer the family to the body for assessment and referral.

4: Update Victoria Police training to include child-aware practice at the point and in the aftermath of arrest

Police should be trained and equipped to:

- Amend arrest procedures where children are present.
- Support children in a trauma-informed manner during and immediately after arrest.
- Work with families and arrestees to organise children’s care arrangements.

¹² Puddefoot, G, & Foster, L. (2007). Keeping children safe when their parents are arrested: local approaches that work. *California Research Bureau*.

¹³ International Association of Chiefs of Police. (2014). Safeguarding children of arrested parents. Available at: <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/IACP-SafeguardingChildren.pdf>

¹⁴ <https://www.theiacp.org/resources/safeguarding-children-of-arrested-parents-toolkit>

Trial

The status quo

Services available at court

When parents are on trial, bail, or remand, the uncertainty can be very difficult for children. Preparing for and appearing at court is traumatic for families whose social, economic, and emotional outcomes often pivot on the decision made there. Despite this, families report that there is hardly any access to immediate information 'on the day' at court and almost never any offer of longer-term support.¹⁵

The experience of appearing at court can act both as a motivation for a family to seek help and as an opportunity for human service systems to identify families that need help, but research conducted for VACRO in 2009 found that this opportunity was often missed:

*Consultations with families of defendants indicate that concerns about the outcome for their loved one dominate on court day. It is only after the defendant has been sentenced that the implications for the family unit become apparent. Many families leave the court building in considerable distress, with no means of locating the specialist support they require.*¹⁶

There are a number of support services attached to Victoria's courts, but there is no specialist support for children and families.¹⁷ The volunteer-based Court Network and the Salvation Army Court Service provide generalist information and material aid referrals across the state's court system. These services usually engage with clients by approaching defendants directly in the court building. Families of these defendants may receive support from these services, but they are not a primary target group and there is not usually enough time around a court appearance to provide support to families.

The Court Integrated Services Program (CISP) can provide assessment, referral, case management, and treatment for people appearing at some Magistrates' Courts but does not work directly with families or children other than by making occasional referrals to community services. Specialist court-based family violence services do support defendants' families but only in the context of family violence. There are no services with specialist capacity to engage with families at court and then follow up to provide longer-term support. Other, non-justice community services are often relied upon to meet a family's immediate needs around court, consuming time that would otherwise be spent on housing, alcohol and other drugs, or case management.¹⁸

¹⁵ Hastrich, R. (2015). Family Links Geelong Pilot Project: Final Evaluation Report. Melbourne, Victoria: VACRO.

¹⁶ Lisa Ward Consulting Services. (2009). *Court Based Family Support: A Service Model for the Melbourne Magistrates' Court*. Available at <https://www.vacro.org.au/Handlers/Download.ashx?IDMF=c408d75c-9bc7-4bf0-8a2c-2173b08bf6dc>

¹⁷ Lisa Ward Consulting Services. (2009).

¹⁸ Hastrich, R. (2015).

Sentencing

For the most part, courts are prevented from considering parental responsibilities and circumstances in their sentencing. Courts can request pre-sentencing reports that include information about the potential hardship associated with a sentence, and these can include the impact on children and other dependents, but there are very few exceptional circumstances under which this can be used to mitigate or modify a sentence, and the hardship on the children must be shown to be extreme.

During research for VACRO carried out in 2006, interviewed judges reported that they did not and were not supposed to take caring responsibilities or consequences for a dependent child into account.¹⁹

Information about loved ones

After sentencing, the families that VACRO has worked with describe feeling lost and confused, with “no way of knowing what was going on”. They often couldn’t find out where their family member was in the prison system, let alone how they were or how to communicate with them:

“It was hard to work out where he was... After the cells and MAP, then who knows? They don’t call you and tell you and it’s really stressful when you have no idea where he is and if he is OK. All I wanted to know is ‘is he OK?’”

“I tried looking for online for info about where he might be...I just got lost.”²⁰

This uncertainty compounds the instability associated with a family member going to prison and makes it even more difficult for parents and carers to support children, address other problems with finances or housing, or locate and access community services that might be able to help them.

Alternatives

Services and information

In Victoria, VACRO delivered a successful court-based family service out of the Geelong Magistrates’ Court from 2013 to 2015. The Family Links program offered:

- Brief intervention case work support to families identified in the service environment of the Magistrates’ Court.
- Comprehensive assessment of a family’s needs.
- Information on their loved one’s whereabouts and likely journey through the correctional system.
- Tailored intervention in the form of practical support services to help them navigate the justice system, access specialised support services, and address immediate real-world

¹⁹ Hannon, T. (2006).

²⁰ Hastrich, R. (2015).

problems like financial difficulty, housing stability, conversations with children and other family members, and negotiating with other authorities and systems like banks, schools, and Centrelink.

Family Links was positively evaluated as having:

- Reduced risk to children.
- Increased levels of self-reliance from improved knowledge of the criminal justice system.
- Successfully provided referrals and links to specialist community support services.
- Reduced risk of financial and housing trauma.²¹

Over the 30 months it was operational, Family Links interacted with over 400 people (including 199 children) in 113 families, providing comprehensive assessment and intervention to a total of 69 families including 147 children. Despite this, the program failed to attract ongoing funding from the justice or family services departments of the Victorian Government, and a bid from Court Services to incorporate this model into CISP also failed.

Sentencing

There are other jurisdictions where children and families are given more consideration at trial and sentencing. In England, Wales, and Scotland, judges have a discretionary right to request pre-sentence reports on the impact of a prison sentence on the individual's children and to take this impact into consideration.²² In the Australian Capital Territory (ACT), the *Crimes (Sentencing) Act 2005* mandates that the courts take the probable effect any sentence or order would have on the individual's family or dependents.²³

In international law, the African Charter on the Rights and Welfare of the Child is an example of a human rights treaty that explicitly provides for the children of incarcerated parents at the point of trial and sentencing. It provides a five-point test for ensuring that the best interests of the child are assessed when sentencing their caregiver, as per Article 12(2) of the Convention on the Rights of the Child.

The test directs sentencing courts in member states to find out whether a convicted person is a primary caregiver, to ascertain the effect on the children of any custodial sentence, to use the principle of the best interests of the child to decide what sentence to impose, and to take steps to ensure that the children will be adequately cared for during any period of incarceration.²⁴

²¹ Hastrich, R. (2015).

²² Lisa Ward Consulting. (2009).

²³ Hannon, T. (2006).

²⁴ The African Committee of Experts on the Rights and Welfare of the Child, General Comment on Article 30 of the African Charter on the Rights and Welfare of the Child, ACERWC/GC/01 (2013), adopted by the Committee at its twenty-second Ordinary Session (04 - 08 November, 201), para. 36.

Recommendations

5: Legislate for courts to consider childcare responsibilities within sentencing guidelines

- Ensure that courts hear pre-sentence reports on family circumstances and caring responsibilities.

6: Establish a support service for families at court

- Attach a specialised family support service to court, coordinated and funded by the designated government body (see Recommendation 1). The service should be provided at all Victorian Magistrates Courts. The government should also consider embedding the service in the County Court.
- The service should provide immediate support with navigating the court and prison system, specialised support to strengthen families, and linkage referrals to other services.

Prison

The status quo

Contact and communication

The pain of separation from family is a defining feature of prison life.²⁵ Parents report feelings of anger, anxiety, sadness, depression, shame, guilt, decreased self-esteem, and a sense of loss when separated from their children. Relationships between parents in prison and their families can be fractured and characterised by infrequent, low-quality communication. There can also be conflict between parents and the carers of the children, which can harm the chances of good family connectedness post-release.

Multiple barriers prevent children from visiting their parents in prison, and around half of imprisoned parents receive no visits from their children. Barriers may include poor health, financial poverty, and carers who are unwilling or unable to visit due to distance, cost, or time pressure. Although they are important to and highly valued by our participants, the visits themselves can be strained: visit centres can be inhospitable, physical contact can be limited, privacy is lacking, and having natural parent-child interactions can be difficult. During the COVID-19 pandemic, all in-person visits to Australian prisons were cancelled, compounding this problem even further.

The cost of phone calls in Victorian prisons is also prohibitive for families trying to maintain contact. The vast majority of our participants contact their families by making a phone call from the prison to a mobile phone. This costs \$0.32 per 30 seconds,²⁶ with 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.²⁷ Parents are therefore

²⁵ For more literature on the impact of incarceration on families and children, we recommend:

Besemer, K. L., & Dennison, S. M. (2017). Social exclusion in families affected by paternal imprisonment. *Australian & New Zealand Journal of Criminology*, 51(2), 221–238. <https://doi.org/10.1177/0004865817701530>

Flynn, C. (2011). Responding to the children of women in prison: Making the invisible visible. *Family Relationships Quarterly*, 19. <https://aifs.gov.au/cfca/publications/family-relationships-quarterly-no-19/responding-children-women-prison-making-invisible>

Flynn, C., Naylor, B., & Fernandez Arias, P. (2015). 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*, 49(3), 351–369. <https://doi.org/10.1177/0004865815585390>

Sheehan, R. (2010). Parental imprisonment and child protection: A study of children presented to the Melbourne children's court. *Australian Social Work*, 63(2), 164–178.

²⁶ We obtained this figure in private correspondence from Corrections Victoria, which does not publish the cost of phone calls from prisons.

²⁷ <https://assets.ombudsman.vic.gov.au/assets/Investigation-into-good-practice-when-conducting-prison-disciplinary-hearings.pdf>

often required to spend more on a 12-minute phone call than they earned that day. This approach is unacceptably cruel, and in our view contravenes the child's right to maintain contact with their parents under Article 9(3) of the Convention on the Rights of the Child.²⁸

Service fragmentation

An important example of the way service fragmentation affects families in the justice system is the disconnect between the Corrections system and the Child Protection system in Victoria, which we encounter regularly in the delivery of our family services. In our experience, there is a cultural mindset within the Child Protection system that once a parent is incarcerated, the relationship between parent and child is no longer a priority.

Child Protection's client is the child, rather than the family, which is of course a necessary protective role. However, we regularly encounter the attitude that an incarcerated parent is automatically a threat to the child and someone *from* whom they should be protected. In general, the mindset that a strong relationship with an incarcerated parent where appropriate is in the best interests of the child is not shared. We find that existing cultural biases against contact and reunification are exaggerated when the parent is in prison.

This approach can make it very difficult for family support services such as ours to set up contact visits in the prison. For example, our family workers reported spending four weeks trying to contact a Child Protection worker, then liaising with five different staff members before finding out what the contact arrangements were (our participants are often unclear on the details of their Child Protection orders). Instead of multiple systems working together to take advantage of the opportunity to work with a parent while they have the time and capacity to strengthen their family relationships in a controlled environment, the fragmented service environment often means the opportunity is missed.

Family connectedness

Maintaining and strengthening relationships between people in prison and their families – especially between incarcerated parents and their children, and the carers of their children – can have psychosocial benefits for families and increase the likelihood of desistance from crime.

Desistance research shows that repairing and maintaining family relationships is an important protective factor against re-offending for the following reasons:

- Recognition as a parent can offer a prosocial, respected identity.
- Love of family can provide someone to desist for.
- Aspiration to be a good parent can act as a 'hook for change'.²⁹

²⁸ Halton, L. & Townhead, L. (2020). Children of Incarcerated Parents: International Standards and Guidelines. Quaker United Nations Office. Available at: https://quno.org/sites/default/files/resources/QUNO%20-%20Children%20of%20Incarcerated%20Parents%20-%20Intl%20Standards%20and%20Guidelines_02032020.pdf

²⁹ This comprises a large body of literature, but we recommend/cite here in particular:

However, the impact of incarceration on the families of the individual in prison has long been overlooked, and there are significant gaps in the provision of family services that support family connectedness. While Corrections Victoria has been investing in support for mothers, and VACRO is pleased to be a partner in this service delivery, there continues to be unmet need. In particular, there is a yawning gap in men's prisons with regard to parenting and family reconnection.

The family connectedness domain is not just about preparing families for reunification post-release, but about maintaining strong family relationships during the entire period of incarceration. Our participants don't leave their families when they enter prison and re-join when they exit. With the right mix of supports, parents, children, and whole families can develop and maintain healthy relationships with each other while one member is incarcerated, resulting in better immediate and life-long outcomes.

To achieve these outcomes, a holistic approach is required that matches the scale and complexity of the Victorian prison system, the complexity of family members' lives in the community, and the vast range of different families and relationships navigating the experience of incarceration. Corrections Victoria, DFFH, and community organisations like VACRO need to invest time and resources to implement a vision for how the justice system responds to families. The vision should build on the success of existing programs.

Alternatives

Holistic, joined-up family support

At Tarrengower prison, VACRO provides a combination of two programs which we believe could be used as a model for family support across the prison system:

- The Parents and Families Engagement program (PAF), which provides individual and family-based therapeutic counselling sessions, parent-child interactions, and facilitated family meetings.
- The Family Visits Program, where family workers facilitate video visits between prisoners and their families and provides visit planning and socio-emotional support to all parties before and after each call.

Further information on each program is available in the Introduction section.

This arrangement enables VACRO to provide holistic support to participants enrolled in both programs. These participants work with the VACRO family counsellor to devise strategies for strengthening their family relationships, and then practice these strategies during the Family Visits program. Staff from both programs work closely to ensure a consistent approach which adapts to

Giordano, P. C., Cernkovich, S. A., & Rudolph, J. L. (2002). Gender, crime, and desistance: Toward a theory of cognitive transformation. *American Journal of Sociology*, 107(4), 990–1064.

Halsey, M. (2018). 'Everyone is in damage control': The Meanings and Performance of Family for Second and Third Generation Prisoners. In *Prisons, Punishment, and the Family*. Oxford University Press.
<https://doi.org/10.1093/oso/9780198810087.003.0014>

the participant's progress over time. Tarrengower is currently the only prison where both programs are available (family counselling programs also run at the Judy Lazarus Transition Centre and Beechworth Correctional Centre, while Family Visits runs at the Dame Phyllis Frost Centre).

Evaluative research in Victoria has also shown that building a therapeutic care team around a family affected by incarceration – including, for example, the parent, any carers, the children, a foster care worker, a welfare worker, the school, and the Department – has been successful in giving families the consistent, holistic support they need to maintain and strengthen their relationships throughout a period of incarceration and prepare successfully for release.³⁰

Communication, information-sharing and trust-building with Child Protection would be vastly improved if our services were provided under the joint response coordinated by DFFH that we have recommended throughout this submission. For families already involved with Child Protection when a family member is incarcerated, there could be a specialist team within Child Protection to which their case could be transferred, so that a specialist worker who is knowledgeable about the justice system can act as a central point of contact for the family, the Department, Corrections Victoria, and family services such as ours. This transfer would mimic the existing provisions for transfers of families between divisions when they move location, for example.

Communication and visitation

In the United States, the state of Connecticut last year became the first to make all phone calls from prison free.³¹ People incarcerated in Connecticut were previously charged USD \$5 for a 15-minute call and can now make a minimum of 90 minutes of phone calls each day for free.

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. The legislation also includes video calls and email services.

In 2018, the Council of Europe published a recommendation providing detailed guidelines to member states for the treatment of children with incarcerated parents. This included thorough guidance on visitation arrangements.³² The Council directed states to authorise visits at least once a week, at times of the day that work around a child's school attendance. Visits should take place away from the prison or even in the home where possible, but otherwise in a child-friendly environment at the prison where children feel safe and can play and interact with their parent. Throughout a visit, parents should be treated with dignity by prison staff in front of their families.

³⁰ See Flynn & Lawlor (2008) for how Anchor Foster Care built a therapeutic care team around the family considered in this case study.

³¹ <https://www.usatoday.com/story/news/nation/2021/06/22/connecticut-first-state-make-prison-phone-calls-free/5302390001/>

³² Council of Europe, Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents (4 April 2018) paras. 16-31.

Recommendations

7: Develop a cross-departmental joint response to support families affected by incarceration

- The designated government body (see Recommendation 1) should work with Corrections Victoria and community organisations to design and implement a joint protocol for in-prison support for families.
- Specialised therapeutic support for families should be available in all prisons, including to people who are in prison on remand.

8: Ensure people in prison can access regular contact and visitation with their families

- Phone calls must be provided at no cost in all prisons to facilitate a child's right to contact with their parent.
- Video visit programs should be extended to all prisons, and these should similarly be provided at no cost to people incarcerated.
- Corrections Victoria should work with community organisations to make in-person visitation appropriate for children and conducive to strengthening family relationships.

Release

The status quo

Lack of specialised support

Corrections Victoria has no specific protocol for the release of a primary carer. Other than the in-prison family support programs described above, 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. During research undertaken for VACRO in 2006, one carer told us:

"...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."³³

Little has changed since that time.

Without specialised support, parents face a number of barriers to successful reunification upon release. If the relationship has not been maintained or strengthened during the period of incarceration, reunions can be fraught with conflict, anger, loss of respect, and difficulties with behaviour. The children themselves can also have differing or confusing expectations about their parent's release. Some children have experienced more stable lives in the interim or have developed attachments to new schools, friends, or family members, and feel anxiety about the parent coming back and disrupting these new attachments. Others may have been unhappy in their interim care placement and can develop unrealistic expectations about what life will be like after their parent is released, which can lead to disillusionment. Sometimes, children will have grown into teenagers or young adults during the period of incarceration, meaning a challenging period of role renegotiation takes place alongside all the other difficulties of a parent returning home.

Other family members are also impacted by the lack of available family support post-release. These impacts can be variable and difficult to process; for example, non-parent carers may have more time and income after a parent's release, enabling them to return to their former lifestyle and enjoy their former freedoms, but this can be offset by anguish or even grief over losing care of the children and concern about their wellbeing under the released parent's care.³⁴ Where people return to live with their family members or with their children's interim carer, the shock associated with

³³ Hannon (2006), p. 95.

³⁴ Hannon (2006); Flynn, C., & Lawlor, J. (2008). Building a therapeutic care team: Foster care intervention when a mother is imprisoned – a case study. *Children Australia*, 33(4), 24–30. <https://doi.org/10.1017/S1035077200000420>

adjusting to non-institutionalised living arrangements after prison can create conflict in those relationships too.

Housing

Housing is extremely difficult to locate for families reunifying after a parent has been released from prison. Parents face a housing paradox; unable to access appropriate family housing upon release because they do not have custody of their children, but unable to get custody of their children without suitable housing. Public housing tenants with a sentence of longer than six months will have lost their housing during their sentence and may have to wait years for another place. In the meantime, they will cycle through temporary, crisis, and short-term accommodation options that are unsuitable for children. Many of our participants will have also incurred housing debts during their sentence as a result of being suddenly remanded into custody, making housing even harder to access post-release. For example, the participant may not have informed a private landlord or utility provider, resulting in the accumulation of debt.

Parole and remand

Parents released on parole must also comply with strict parole orders, which rarely take childcare responsibilities into account. Parents may be coping with multiple systems and little integration. They may be required to navigate community corrections orders, child protection orders, and intervention orders simultaneously, attending numerous appointments with multiple case workers. Sometimes there is brokerage available to help them, but parents are responsible for finding childcare during their parole appointments, community corrections work, or compulsory educational, assessment, or treatment programs. If they aren't able to, both their release and their custody arrangements can be jeopardised.

Parents on remand can make successive bail applications over the course of their remand period which can be denied, raising the family's hopes then dashing them, or conversely granted unexpectedly with no notice or preparation.³⁵ If bail is granted and children are returned to a parent's custody, this can disrupt interim care arrangements which may no longer be available to the family if the parent is sentenced a few weeks or months later and returns to prison.

Alternatives

A throughcare approach

At VACRO we take a throughcare approach to our work, meaning we believe in providing continuous care to people in prison from when they are first incarcerated through to sometime after their release when they have other support networks in the community. In line with this approach, best practice involvement of families through transition and reintegration should begin in prison with the support to maintain and strengthen family bonds that we have recommended above. Regular work with families will allow for the identification of family members who will be

³⁵ See Flynn & Lawlor (2008) for a case study of a family's experience of this.

particularly key to release, parole, and reunification planning. Such family members should be involved in decision-making and planning processes, ensuring that families can prepare their own reintegration support plans.

Specialist family workers can also help families with referrals to the support services they may need in their community ahead of the family member's release, including mental health, alcohol and other drugs, or material aid. Family workers can act as a point of contact between these service systems and the family, building relationships and educating service providers on the challenges and opportunities facing families when a member is released from prison.

Corrections Victoria reports that the Family Connect program at Ravenhall conducts care plan meetings with family members in preparation for release, but because Ravenhall operates somewhat separately from the rest of the prison system, we have little insight into this program.³⁶ The Baggarakook Program run by the Victorian Aboriginal Legal Service and Aboriginal Housing Victoria also supports family reunification including by offering accommodation for mothers and children to trial living together again; we recommend the Committee consult with this program for further advice on best practice family reunification after prison for Aboriginal and Torres Strait Islander families.

Recommendations

9: Develop a cross-departmental joint response to support family reunification on release

- The designated government body (see Recommendation 1) should develop a joint protocol for family reunification post-release, which builds a therapeutic care team around the family.
- Family case workers should support children, parents, and carers during the reintegration process and maintain contact with schools, parole officers, and any other stakeholders or support services. These case workers should be employed by community-based organisations with deep knowledge of services and supports available post-release.
- The response should build on pre-release family work.
- The protocol must equally apply to parents who were in prison on remand.

10: Provide funding for post-release family housing

- Funding should be provided by DFFH, not DJCS.
- Housing should be provided close to the schools and community supports with which families are already connected.
- Prison leavers planning to regain custody of their children should be provided with housing that will accommodate the family's needs.

³⁶ Corrections Victoria. (2022). *Family Engagement and Parenting: Programs and Services Guide*. Victorian Government. Available at: <https://files.corrections.vic.gov.au/2022-02/Family%20Engagement%20Programs%20and%20Services%20Guide.pdf>