

**Submission
No 35**

INQUIRY INTO CHILDREN AFFECTED BY PARENTAL INCARCERATION

Organisation: Jesuit Social Services

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Inquiry into children of imprisoned parents

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Jesuit
Social Services
Building a Just Society

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Jesuit Social Services: Who we are and what we do

Jesuit Social Services is a social change organisation that delivers practical support and advocates for policies to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish. For 45 years, we have accompanied people involved in, or at risk of becoming involved in the criminal justice system, working across crime prevention as well as supporting people with transitions out of custody.

We work with some of the most marginalised individuals, families and communities, often experiencing multiple and complex challenges. Jesuit Social Services works where the need is greatest and where we have the capacity, experience and skills to make the most difference. Our services span Victoria, New South Wales and the Northern Territory.

Our service delivery and advocacy focuses on these areas:

- **Justice and crime prevention** – people involved with the justice system.
- **Mental health and wellbeing** – people with multiple and complex needs including mental illness, trauma, homelessness and bereavement.
- **Settlement and community building** – recently arrived immigrants and refugees, and disadvantaged communities.
- **Education, training and employment** – people with barriers to education and sustainable employment.
- **Gender Justice** – leadership on the reduction of violence and other harmful behaviours prevalent among boys and men, and new approaches to improve their wellbeing and keep families and communities safe.
- **Ecological justice** – advocacy and research around the systemic change needed to achieve a ‘just transition’ towards a sustainable future, and supporting community members to lead more sustainable lives.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, and academic research and evidence.

We seek to influence policies, practices, legislation and budget investment to positively influence people’s lives and improve approaches to address long-term social challenges. We do this by working collaboratively with governments, businesses, the community sector, and communities themselves to build coalitions and alliances around key issues, and building strong relationships with key decision-makers and the community.

We acknowledge the Traditional Custodians of all the lands on which Jesuit Social Services operates and pay respect to their Elders past and present. We express our gratitude for First Nations people’s love and care of people, community, land and all life.

Introduction

Jesuit Social Services welcomes the opportunity to contribute to the Parliament of Victoria's Legislative Council Legal and Social Issues Committee's (the Committee) *Inquiry into children of imprisoned parents*. We are particularly interested in this issue given our experience in working with people to prevent and divert involvement in the justice system as well as offering transitional support for people leaving custody.

For over 20 years, researchers have highlighted the harm of parental incarceration and have urged governments to take action.¹ This issue is also gaining attention in other jurisdictions, with an inquiry into imprisoned parents underway in New South Wales.

We know that when a person is incarcerated, their entire family and community is impacted. Most people who enter prison leave a family, and often dependent children in the community.² This can have significant social, emotional and health consequences for families and also contribute to financial and housing stress. Relatedly, imprisonment of parents has been linked to increased risk of children placed in out-of-home care as well as intergenerational implications with evidence showing that many people in prison have also had a parent in prison during their own childhood.³

Some communities and families are more likely to experience and be impacted by parental incarceration. Entrenched geographical disadvantage has been explored in Jesuit Social Services' series of research reports conducted over the past 20 years titled Dropping off the Edge (DOTE). Our [DOTE 2021 research](#) revealed that those living in the three per cent most disadvantaged communities in Victoria were nearly three times more likely to have high levels of prison admissions than people living in the remaining 97 per cent of communities.⁴ This highlights the localised nature of crime and entrenched disadvantage as an underlying cause of offending.⁵

Jesuit Social Services is cognisant that the Committee is inquiring into the adequacy of policies and services to assist the children of imprisoned parents in Victoria. While we acknowledge that the focus is children, this issue cannot be dealt with in isolation. We firmly believe in a preventative approach that aims to reduce the drivers of parental incarceration and uses prison as a last resort. This can be achieved through creating a justice system that is, underpinned by principles of prevention, diversion and restorative justice and has a focus on rehabilitation rather than punishment and is gender responsive.

In this submission, Jesuit Social Services advocates that if a parent is incarcerated, there must be therapeutic interventions that address their specific needs while in custody, as well as support for their children and family in community. Further, we call for an integrated approach to ensure families stay connected, where appropriate, while a parent is in custody to minimise harm from incarceration and family separation. We also highlight the importance of safe and secure housing and links to therapeutic,

¹Bell, M. F., Bayliss, D. M., Glauert, R., & Ohan, J. L. (2018). Using linked data to investigate developmental vulnerabilities in children of convicted parents. *Developmental Psychology*, 54(7), 1219.; Miller, K. M. (2006). The impact of parental incarceration on children: An emerging need for effective interventions. *Child and Adolescent Social Work Journal*, 23(4), 472-486.; Flynn, C., Bartlett, T., Arias, P. F., Evans, P., & Burgess, A. (2015). Responding to children when their parents are incarcerated: Exploring the responses in Victoria and New South Wales, Australia. *Law Context: A Socio-Legal J.*, 32, 4.

² Flynn, C., Bartlett, T., Arias, P. F., Evans, P., & Burgess, A. (2015).

³ Dennison S. M. & Besemer K. L. 2018. Missing and missing out: social exclusion in children with an incarcerated parent. In Condry R & Smith PS (Eds). *Prisons, Punishment, and the Family: Towards a New Sociology of Punishment?* Oxford: Oxford University Press.

⁴ Tanton, R., Dare, L., Miranti, R., Vidyattama, Y., Yule, A. and McCabe, M. (2021), *Dropping Off the Edge 2021: Persistent and multilayered disadvantage in Australia*, Jesuit Social Services: Melbourne.

⁵ Ibid.

family and parenting and clinical supports to assist with transitions out of custody thereby reducing recidivism and supporting parents to return to their families. This includes specific supports for vulnerable cohorts as they transition out of prison and reconnect with their families.

People in custody: what the data tells us

Prior to the COVID-19 pandemic, the number of people in Victorian prisons had risen dramatically with the rate of imprisonment increasing by almost 50 per cent and overall prison numbers doubling in the ten years up until 2020.⁶ Changes to bail legislation introduced in recent years have led to a growing number of people in our prisons who are unsentenced and yet to be convicted of a crime. Following the Coghlan Bail Review in 2017⁷, the Andrews Government enacted the *Bail Amendment (Stage One) Act 2017* and the *Bail Amendment (Stage Two) Act 2018* which has resulted in unprecedented numbers of people on remand.

With COVID-19 posing a considerable risk to people in detention, there has been a decline in the rate and number of people imprisoned in Victoria. According to the Productivity Commission, the fall in imprisonment during the COVID-19 pandemic appears to be due to a combination of falling prison receptions — due to a slowdown in court processing during lockdown periods — and an increase in prisoner discharge due to a deliberate change of policies or practices that resulted in the release of more unsentenced prisoners on bail.⁸ This demonstrates that there are other options and alternate pathways available to divert from prison.

Men

At present, 94 per cent of people in prison in Victoria are male.⁹ Our experience demonstrates that prisons are ineffective at addressing attitudes and beliefs that underlie harmful and violent behaviours perpetrated by men because they tend to focus more on punishment rather than rehabilitation. Our research, *The Man Box: A study on being a young man in Australia*, found that men who endorsed rigid and narrow ideas of masculinity (such as acting tough, always sorting out problems on their own and supporting the use of violence to get respect) were 14 times more likely to have used physical violence in the past month.¹⁰ These men were also twice as likely to have had thoughts of suicide in the last two weeks and were more likely to report feeling down, depressed and hopeless compared to men who did not endorse such norms. As it stands, prisons are at-risk of reinforcing these Man Box norms, thereby increasing risks to our community and men themselves.

Women

Jesuit Social Services is concerned about the numbers of women being sent to prison which has more than doubled over the past decade.¹¹ Women are more likely to be parents with a 2018 survey of

⁶ Australian Bureau of Statistics (2019). Prisoners in Australia, 2019 ([Weblink](#))

⁷ Coghlan bail Review (2017).

⁸ Productivity Commission. (2021). Australia's Prison Dilemma. ([Weblink](#)).

⁹ Corrections Victoria. (2021). Monthly prisoner and Offender Statistics. ([Weblink](#))

¹⁰ The Men's Project & Flood, M, (2018) *The Man Box: A Study on Being a Young Man in Australia*. Jesuit Social Services: Melbourne. ([Weblink](#))

¹¹ Victorian Legal Services Board and Commissioner. (2020). Keeping women out of the justice system. REPORT NO. 2. ([Weblink](#))

women in Victorian prisons showing that around 68 per cent of women reported having dependent children.¹²

In Victoria, women are increasingly being sent to prison unsentenced. RMIT University's Centre for Innovative Justice found that in 2019–20, approximately 90 percent of women entering prison were on remand.¹³ This is up from 62% in 2009–10. Concerningly, between July 2020 and June 2021, a total of 2,318 women spent time in Victoria's prisons without being sentenced to a term of imprisonment.¹⁴ In our experience, we have observed that many women are denied bail because they do not have an address due to experiences of family violence or homelessness. In our experience, this disrupts employment and further entrenches women in poverty, impacting on housing, child care accessibility as well as maintaining connection to the workforce.

Women entering custody also have histories of trauma, poverty and disadvantage. The *Inquiry into Victoria's Justice System* found that compared to men, women are often victims of sexual, physical or emotional abuse and their criminalisation is underpinned by this unresolved trauma with links to drug dependence and other low-level offending.¹⁵ Women are typically more likely to enter custody on charges related to drug dependence rather than more serious offences. At June 2020, 26 per cent of women in custody were serving sentences for drug related offences, compared to 13 per cent for assault and 11 per cent for burglary.¹⁶ The vast majority of women who are being sent to prison have not been there before, where at June 2020, 62 percent of women in prison had no prior history of imprisonment.¹⁷

Prison can further traumatise women with these experiences.¹⁸ In particular, the *Inquiry into Victoria's Justice System* found that the conditions of Victorian prisons, specifically the disproportionate gender ratio of male staff in female prisons and tactics such as strip searching, can retraumatise women by replicating the power dynamics of abusive relationships.¹⁹

In terms of sentence length, 25 per cent of all sentenced female prisoners at June 2020 were serving a sentence of less than one year and 51 per cent were serving a sentence between one and five years.²⁰ This means that just over three quarters of sentenced women were serving a sentence of less than 5 years.²¹

The evidence shows that the majority of women in custody are unsentenced, have experienced abuse and trauma, are more likely to be mothers, and that they are often in custody for non-violent charges and serving short sentences. Jesuit Social Services calls for a system that is premised on prevention and rehabilitation and one that is gender responsive rather than one that separates women from their children and families on matters that have not yet been proven in court. We outline our vision for a system such as this in the sections below.

¹² Walker, S., Sutherland, P. & Millsteed, M. (2019). Characteristics and offending of women in prison in Victoria 2012-2018. Crime Statistics Agency, Melbourne.

¹³ Centre for Innovative Justice. (2021). Submission to the Inquiry into Victoria's Criminal Justice System Submission 82, p. 5.

¹⁴ Ibid.

¹⁵ Parliament of Victoria. (2022). Inquiry into Victoria's criminal justice system. Legal and Social Issues Committee. ([Weblink](#))

¹⁶ Corrections Victoria (2022). Infographic – Profile of women in prison. Annual Prisoner Statistical Profile 2009-10 to 2019-20. ([Weblink](#))

¹⁷ Corrections Victoria (2022). Infographic – Profile of women in prison. Annual Prisoner Statistical Profile 2009-10 to 2019-20. ([Weblink](#))

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

Aboriginal and Torres Strait Islander women²²

When discussing incarceration, we must highlight the overrepresentation of Aboriginal people in the justice system. Aboriginal people have been the subject of adverse government interventions since early colonisation and continue to experience the ongoing impacts of dispossession, structural racism, intergenerational trauma and disadvantage.²³ Whilst this has been accepted in the literature and acknowledged as the root cause of overrepresentation in Victorian frameworks (such as *Burra Lotjpa Dunguludja: Aboriginal Justice Agreement 4* and *Youth Justice Strategic Plan 2020–30*), disproportionate overincarceration, a culture of over-policing and structural racism remain a daily reality for Aboriginal communities.

In the last 10 years, the number of Aboriginal women in Victorian prisons has increased significantly and peaked at 80 in 2019, when they accounted for 14 per cent of the female prisoner population.²⁴ Several Aboriginal Community Controlled Organisations have raised their concerns about the disproportionate impact of the current bail legislation on Aboriginal women.²⁵ This has also been echoed by the *Inquiry into Victoria's Justice System* which found that Aboriginal women are often remanded in custody for low level offences rather than having access to bail.²⁶

The Human Rights Law Centre and Change the Record's report into the over-imprisonment of Aboriginal women highlights the harm caused to communities and families when women are incarcerated²⁷. Aboriginal women have central roles in raising children, earning income, role modelling and leadership. Incarcerating them can therefore have significant flow on effects to the whole community.²⁸

The impact of parental incarceration

Parental incarceration has far reaching impacts across the individual and societal level, affecting the parent, their child and family across generations as well as the wider community.

Social, emotional and health impacts on parents and children

There are a number of social, emotional and health impacts experienced by parents, families and children as a consequence of parental incarceration. Feelings of shame, social exclusion and stigma have often been reported by families and children who have a parent in custody.²⁹ For children in particular, trauma occurs due to the parent-child separation and can manifest in a range of behavioural or emotional concerns, including anxiety, depression, learning difficulties or substance misuse.³⁰ Parents

²² Note: Hereafter we use the term 'Aboriginal' when referring to Aboriginal and Torres Strait Islander people,

²³ Commission for Children and Young People (2021). Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system. ([Weblink](#))

²⁴ Corrections Victoria (2022). Infographic – Profile of women in prison. Annual Prisoner Statistical Profile 2009-10 to 2019-20. ([Weblink](#))

²⁵ See for example VALS (2021). Victorian Aboriginal Legal Service. Submission to the Inquiry into Victoria's Criminal Justice System. ([Weblink](#)); VACSAL (2021). Submission to the Inquiry into Victoria's Criminal Justice System. ([Weblink](#)).

²⁶ Parliament of Victoria. (2022). Inquiry into Victoria's criminal justice system. Legal and Social Issues Committee. ([Weblink](#))

²⁷ Walters, A., & Longhurst, S. (2017). Over-represented and overlooked: The crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment. *Change the Record Coalition and Human Rights Law Centre*.

²⁸ Australian Law Reform Commission. (2017). Incarceration Rates Of Aboriginal And Torres Strait Islander Peoples (DP 84). Australian Government.; Walters, A., & Longhurst, S. (2017); VACSAL (2021).; VALS (2021).

²⁹ Besemer and Dennison (2018)

³⁰ Besemer and Dennison (2018); Shaw, T. V., Bright, C. L., & Sharpe, T. L. (2015). Child welfare outcomes for youth in care as a result of parental death or parental incarceration. *Child abuse & neglect*, 42, 112-120.; 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*.

also experience trauma due to being separated from children which contributes a decreased ability to communicate their emotions, and this has been linked to prolonged incarceration.³¹ The incarceration of a primary caregiver also often contributes to financial insecurity for families³² as well as causing many families to remain in precarious housing thereby negatively impacting their wellbeing.³³

Contact with the out-of-home care system

The imprisonment of a parent has been linked to an increased risk of children entering out-of-home care.³⁴ There are a number of reasons why this occurs, including the loss of a parent which in turn places children at risk of removal.³⁵ This has severe implications for the intergenerational cycle of justice involvement. The Sentencing Advisory Council's report into 'Crossover Kids' highlighted the link between a child's placement in out-of-home care and the associated risk of becoming caught up in the justice system.³⁶ It is important to note that Aboriginal children are already significantly overrepresented in the child protection system and the incarceration of Aboriginal mothers is only likely to exacerbate this.³⁷

Intergenerational justice system involvement

Given the nature of our work around crime prevention, Jesuit Social Services is particularly concerned about the intergenerational cycle of justice involvement. Substantial links have been made between parental imprisonment and children going on to have justice involvement. In 2019, one in five prison entrants across Australia reported that one or more of their parents or carers had been in prison during their childhood.³⁸ On average, a child whose mother has been to prison is six times more likely to become incarcerated themselves.³⁹ However, this is by no means deterministic and there are a number of critical opportunities to prevent justice system involvement as well as to intervene early.

In addition to parental incarceration being a risk factor for intergenerational justice involvement, parents who are incarcerated experience much higher rates of recidivism compared to the remainder of the prison population.⁴⁰ This highlights the importance of ensuring imprisonment is only ever used as a last resort as well as the critical need for wrap-around pre- and post-release supports.

³¹ Lindsay, G., & Strand, S. (2013). Evaluation of the national roll-out of parenting programmes across England: the parenting early intervention programme (PEIP). *BMC Public Health*, 13(1), 1-17.

³² Trotter et al. (2015), Besemer and Dennison (2018); VACRO, (2018). Victorian Association for the Care and Resettlement of Offenders Annual Report 2017/2018. December 2018. ([Weblink](#))

³³ Ong Viforj, R., Singh, R., Baker, E., Bentley, R. and Hewton, J. (2022) Precarious housing and wellbeing: a multi-dimensional investigation, AHURI Final Report No. 373, Australian Housing and Urban Research Institute Limited, Melbourne

³⁴ Jedwab, M., Xu, Y., & Shaw, T. V. (2020). Kinship care first? Factors associated with placement moves in out-of-home care. *Children and Youth Services Review*, 115, 105104.; Genty, P. M. (2017). Permanency Planning in the Context of Parental Incarceration: Legal Issues 4 and Recommendations. *Children with parents in prison*, 75-92.

³⁵ Walters, A., & Longhurst, S. (2017).

³⁶ Sentencing Advisory Council (2020). Crossover Kids: Vulnerable Children in the Youth Justice System, Report 2: Children at the Intersection of Child Protection and Youth Justice across Victoria. ([Weblink](#))

³⁷ Commission for Children and Young People (2021). Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system. ([Weblink](#))

³⁸ Australian Institute of Health and Welfare 2019. The health of Australia's prisoners 2018. Cat. no. PHE 246. Canberra: AIHW. ([Weblink](#))

³⁹ Cox, M. (2009). The relationships between episodes of parental incarceration and students' psycho-social and educational outcomes: An analysis of risk factors. Temple University.

⁴⁰ Roxburgh and Fitch (2014) Roxburgh, S., & Fitch, C. (2014). Parental status, child contact, and well-being among incarcerated men and women. *Journal of Family Issues*, 35(10), 1394-1412.; Kjellstrand, J. M., & Eddy, J. M. (2011). Parental incarceration during childhood, family context, and youth problem behavior across adolescence. *Journal of offender rehabilitation*, 50(1), 18-36.

Keep them out: Prison as a last resort

Strengthen prevention and diversion

Place-based approaches

As explored by our DOTE research, where a person lives is a significant factor contributing to whether they will come into contact with the justice system, highlighting that entrenched disadvantage is an underlying cause of offending.⁴¹ Jesuit Social Services strongly believes that place-based approaches can address the complex and interconnected social determinants of crime, thereby, preventing contact with the justice system.

Jesuit Social Services established the [Centre for Just Places](#) with a key focus being to build research and advocacy around the need to address the root causes of social, economic and environmental inequality. We recommend that the Victorian Government should provide continued support and investment to develop long-term, place-based approaches in areas of disadvantage that centre on community decision-making and address the range of factors that can lead to crime. Given the ongoing overrepresentation of Aboriginal people and Culturally and Linguistically Diverse (CALD) people in the Victorian justice system, we call for specific place-based approaches and partnerships between mainstream and community-led initiatives for people from Aboriginal and CALD communities. In implementing place-based approaches, we can reduce the number of parents having contact with the justice system and entering prison, thereby, keeping families together and preventing the harmful impacts of parental imprisonment.

Diversion away from the justice system

Early engagement with the criminal justice system can establish a trajectory towards further justice involvement into adulthood. Raising the age of criminal responsibility to at least 14 years of age serves as a critical prevention measure by diverting children from contact with the criminal justice system and breaking the cycle of offending. Our paper, *Raising the Age of Criminal Responsibility: There is a Better Way*,⁴² sets out the most effective approach to prevent children's trajectories into the justice system; to intervene early and support families at the first signs of struggle.

Pre-court and court-ordered diversion are also crucial measures to prevent ongoing contact with the justice system. This was a key finding of the *Inquiry into Victoria's Justice System* which highlighted the importance of diversion in connecting people with the supports needed to address factors contributing to their offending.⁴³ It also recommended an expansion of existing court-based diversion programs to meet increasing demand.⁴⁴ Jesuit Social Services echoes these calls, advocating for greater use of pre-court and court-ordered diversion to allow people to address the drivers behind their offending while still holding them accountable. Given that most women in prison are more likely to be parents and have experiences of trauma, particular attention should be paid to diverting them from prison and linking them with therapeutic programs as well as other critical supports to assist with living in their community,

⁴¹ Tanton, R., Dare, L., Miranti, R., Vidyattama, Y., Yule, A. and McCabe, M. (2021), *Dropping Off the Edge 2021: Persistent and multilayered disadvantage in Australia*, Jesuit Social Services: Melbourne.

⁴² Jesuit Social Services (2029). *Raising the Age of Criminal Responsibility: There is a better way.* ([Weblink](#))

⁴³ Parliament of Victoria. (2022). *Inquiry into Victoria's criminal justice system.* Legal and Social Issues Committee. FINDING 18, page xxxix. ([Weblink](#))

⁴⁴ Parliament of Victoria. (2022). *Inquiry into Victoria's criminal justice system.* Legal and Social Issues Committee. ([Weblink](#))

such as stable employment that prevents further entrenched poverty, impacting on housing and access to children.

Promote positive change around gender norms and stereotypes

There is a compelling need to address the root causes of harmful behaviours such as violence and family violence that contribute to fathers being sent to prison. To do this we must address gendered norms and stereotypes and support boys and men to live respectful, accountable and fulfilling lives so they are able to develop loving relationships free from violence and contribute to safe and equal communities. Our priority must be to make women and children safe; change structures, norms and practices that regard women as inferior and condone violence against them; ensure that violence is reported and sanctioned; promote help-seeking among men who are at-risk of using violence; and hold men to account for their actions.

Through [The Men's Project](#), Jesuit Social Services has taken steps to better understand and respond to male violence and other harmful behaviours. We have developed workforce capacity-building programs for people working with men and boys to engage them on issues related to rigid adherence to stereotypical constructions of masculinity.⁴⁵ We strongly believe that interventions such as these have the potential to address the root causes of men's violence and harmful behaviours that can contribute to parental incarceration, thereby, keeping families together and communities safe.

Repeal regressive legislation

In order to prevent the harmful impacts of parental imprisonment on children, families, communities and future generations, Jesuit Social Services advocates for systemic reform to Victoria's justice system. We must significantly reduce the number of people entering custody, particularly parents, and ensure that prison is kept as a last resort, which is consistent with the *Sentencing Act 1991 (Vic)*.

Remand

Jesuit Social Services is deeply concerned about the unprecedented growth in the use of remand. We call on the Victorian Government to reverse changes to bail laws in order to reduce Victoria's remand population.

In addition to addressing legislative shortcomings, we must invest in supported bail options to support people at high-risk of reoffending. Addressing dynamic risk factors for individuals who can be appropriately bailed into the community by, for example, investing in diverse housing options, reserves remand for cases where no other option is viable. Otherwise, people may be entrenched further into the justice system - either because they are remanded due to factors beyond their control or because they are at higher risk of committing bail-related offences, thus exposing them to the possibility of custody due to punitive and narrow sentencing options. This set of circumstances all too frequently and disproportionately affects people experiencing vulnerability in our community.⁴⁶

⁴⁵ Please see: [Modelling Respect and Equality Unpacking the Man Box workshops](#)

⁴⁶ Human Rights Law Centre. (2021). Explainer: Victoria's broken bail laws. ([Weblink](#))

Mandatory sentencing relating to intimidation offences

In 2019, the Victorian Government introduced an offence of intimidation of a police officer, public safety officer (PSO), police custody officer, custodial officer, youth justice custodial officer or a family member, carrying a maximum of 10 years imprisonment. These amendments are unnecessary. Pre-existing laws already covered serious conduct, including reckless conduct endangering life, reckless conduct endangering serious injury, and assault of such workers under section 31 of the *Crimes Act (1958)*. This legislation is resulting in people being further entrenched in the criminal justice system and does not address the root causes of crime, nor does it address the current factors that are leading to incidents in prisons.

Reinstate alternatives to custody

In order to significantly reduce the number of parents in prison and promote rehabilitation, we need to review alternative sentencing options and consider the re-introduction of measures such as suspended sentences and home detention, especially for those on short sentences or convicted of non-violent crimes. Orders such as these create a graduated sentencing hierarchy, reserving prison for the most serious, violent offences, and ensuring that legislation matches evidence on what works to prevent reoffending.

Certain conditions around these orders provide safeguards to ensure their effectiveness. For instance, certain individuals would be better candidates for non-custodial sentences, such as such as parents, in particular, mothers with non-violent offending. Research into monitoring of individuals in the community has consistently shown that non-custodial orders, such as electronic monitoring, are successful only when well-resourced, intensive and appropriate support is provided. Without this support, breaches of order conditions are more common.⁴⁷

Presumption against short sentences

For many people in prison, short-term sentences do not promote rehabilitation. State-wide alternatives to custody are needed for people with short prison sentences (for example, 18 months or less) in addition to legislating for a presumption against short-term prison sentences. Recently, Scotland has acted against sentences of 12 months or less by imposing a presumption against them.⁴⁸ Victoria currently does not have a law either banning or limiting prison sentences of any length.

A presumption against short prison sentences combined with robust, viable and state-wide alternatives to custody would prevent parents from becoming entrenched in the criminal justice system and reduce the number of people in Victorian prisons altogether. It is essential that any alternatives to custody include wrap-around supports for people to address the underlying circumstances influencing their offending.

Home detention

Home detention was abolished on 16 January 2012 and is no longer available as a sentence or as a post-sentence order. Home detention is a strong option for some cohorts, such as people with drug-related

⁴⁷ Graham, H., & McGivov, G, (2017). Electronic monitoring in the criminal justice system. ([Weblink](#)). Black, M., & Smith, R. G. (2003). Electronic monitoring in the criminal justice system. ([Weblink](#)).

⁴⁸ Howard League Scotland. (2019). Presumption Against Short Sentences (PASS) ([Weblink](#))

charges and non-violent offending histories. This option is much more fitting for parents who, where appropriate, may be able to stay connected in the community with their children and families and prevent the significant harm that arises from parental imprisonment. Conditions may be attached to any home detention order, in conjunction with targeted and intensive support mechanisms that assist rehabilitation. Home detention must be met with increased funding for Community Corrections to support working with people in the community.

We recommend that the Victorian Government:

- **Invest in research, workforce capacity building, and the development, piloting and evaluation of prevention interventions to positively shift cultures and attitudes to address the underlying drivers of violence and other harmful behaviours by boys and men.**
- **Continue to develop long-term, place-based approaches in areas of disadvantage that centre community decision-making.**
- **Ensure the use of pre-court and court-ordered diversion and provide gender responsive supports to address the range of factors that can lead to justice system involvement.**
- **Repeal regressive legislation in relation to bail, and mandatory sentencing for offences relating to emergency workers, and invest in supported bail options.**
- **Reinstate alternatives to custody, including by considering a presumption against short sentences and reintroducing home detention.**

Keep them connected: Reduce harm arising from parental incarceration

Embed the ‘principle of normalcy’

Jesuit Social Services advocates for small, home-like centres, close to family and community. While there are many benefits to this approach in terms of the development of independent living skills and connection to community, it may be particularly important for parents in maintaining contact with children within a secure facility.

On our [Justice Solution tours](#) of the US, the UK, parts of Europe and New Zealand, we saw alternative ways of doing justice that are more effective at supporting people to desist from re-offending while building healthier, safer communities.⁴⁹ Of particular note was the ‘principle of normalcy’ underpinning the Norwegian system that life inside prison should resemble life outside as much as possible, ensuring that the rights of people in prison are met. The ‘principle of normalcy’ echoes the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules,

⁴⁹ Jesuit Social Services (2017). #Justice Solutions Tour Expanding the Conversation. ([Weblink](#))

which cover a range of matters pertinent to ensuring safe and healthy living conditions for people in prison, including in regard to temperature, lighting and ventilation. Importantly, the rules make clear that incarceration alone is the person's punishment, and not the circumstances of their confinement.⁵⁰

Maintaining the parent-child connection

For parents, separation from their children and family can negatively impact on their wellbeing. While we need to do everything to keep families together, in the case where a parent is sentenced to a period in custody, the provision of programs to stay connected with family is critical.

Programs that enable parents to retain meaningful contact with their children while incarcerated have been shown to minimise the trauma of separation and build greater connection for both children and parents.⁵¹ There are several types of parent-child support programs including child in prison programs (mother-and-infant nurseries), contact maintenance programs, family support programs and supported playgroups.

Children in prison programs

Jesuit Social Services maintains that prison should be a last resort and advocates for alternatives to custody such as community-based sentences. However, in situations where parents with children have been sentenced to a period in custody we advocate for small, home-like centres, close to family and community that maintain a level of normalcy as well as therapeutic programs to strengthening the parent-child bond.

For mothers with infant children who have been sentenced to a period in custody, prison programs show promise in minimising some of the harm arising from incarceration. Prison nurseries operate in Australia and internationally and have been shown as an effective practice in maintaining and strengthening the mother-child bond. In a four-year longitudinal study of the outcomes for mothers and children in a U.S. prison nursery program,⁵² 70 per cent of the children sampled achieved secure attachment to their mother, and infants who spent longer than a year in the nursery were significantly more attached and they also reached developmental milestones.⁵³ In Victoria, a systematic literature review of prison nursery programs for incarcerated mothers was undertaken to inform future program development and service provision of mother and children programs in the Victorian prison system.⁵⁴ Mothers who participated in prison nursery programs were less likely to return to prison than those who were separated from their children.⁵⁵

For a number of years Jesuit Social Services' **Western Sydney Program** has provided therapeutic support to Aboriginal women with infant children living at Emu Plains Correctional Centre. Skilled therapists have delivered group sessions and facilitated art projects to help women address parenting challenges. Over the past two years, COVID-19 restrictions have prevented staff from entering the prison precinct. This meant that our staff modified their work to engage with mothers and infants in the local community, through our relationship with Baabayn Aboriginal Corporation, which is co-located with us at the Holy

⁵⁰ United Nations Office for Project Services (UNOPS) (2016). Technical Guidance for Prison Planning.

⁵¹ Ibid.

⁵² Goshin, L.S., Byrne, M.W. and Henninger, A.M., (2014). Recidivism after release from a prison nursery program. *Public Health Nursing*, 31 (2), pp.109-117.

⁵³ Ibid.

⁵⁴ Shlonsky, A., Rose, D., Harris, J., Albers, B., Mildon, R., Wilson, S. J., ... & Kissinger, L. (2016). *Literature review of prison-based mothers and children programs*. Corrections Victoria.

⁵⁵ Ibid.

Family site in Emerton. Baabayn have a Mums and Bubs program and we have been able to support their work as we refocus our Parent Infant Family Australia prison program.

Jesuit Social Services is also in the process of redesigning the program with a greater emphasis on community-based early intervention and prevention work with Aboriginal mothers at risk of incarceration principally due to trauma. This will have two key components including a supported playgroup and parenting education program. Support for and investment in programs that engage mothers both in custody and in the community is crucial not only for addressing the significant harms that arise from parental incarceration, but for keeping parents and their children out of the justice system, supporting them to reach their full potential and to ultimately make communities safer.

Supported playgroups

Supported playgroups have been shown to nurture the development and wellbeing of both children and parents. Playgroups are delivered by facilitators who are trained early childhood educators and may have additional skills such as trauma-informed practice, and aim to support families with particular needs or vulnerabilities by providing opportunities for parents to meet and share experiences, and for children to play, learn and socialise.⁵⁶ Given the overrepresentation of Aboriginal mothers in custody, supported playgroups must be culturally safe and empowering for Aboriginal children, mothers and families. Promising practice should align with Aboriginal self-determination and partnerships with Aboriginal Community Controlled Organisations in delivering supported playgroups are central to ensuing culturally safe environment for Aboriginal mothers and children.

Parenting programs

The use of parenting skills programs during incarceration has been show to minimise some of the adverse effects on children and families due to incarceration by enhancing parenting capacity while in custody and post-release, and strengthening parent-child relationships.⁵⁷ Parenting programs have also been reported to reduce feelings of depression for parents, increase parental knowledge, and increase communication with participants' families as well as fellow prisoners.⁵⁸ Studies have also shown specific benefits to children when they participate in facilitated parenting programs, namely an increased capacity for the emotional communication needed to mitigate early childhood behavioural issues⁵⁹. For parents who are particularly vulnerable or with complex needs, interventions should be individualised, multicomponent and targeted to their distinct needs.⁶⁰ The 'Circle of Security' is an example of such an individualised intervention delivered in a context of a group aiming to help parents better understand the attachment needs of their children.⁶¹

⁵⁶ Commerford, J., & Robinson, E. (2017). Supported playgroups for parents and children: The evidence for their benefits. *Family Matters*, 99, 42-51.

⁵⁷ Armstrong, E., Eggins, E., Reid, N., Harnett, P. and Dawe, S., (2018). Parenting interventions for incarcerated parents to improve parenting knowledge and skills, parent well-being, and quality of the parent-child relationship: A systematic review and meta-analysis. *Journal of Experimental Criminology*, 14 (3), pp.279-317.

⁵⁸ Collica-Cox, K., & Furst, G. (2019). Implementing Successful Jail-Based Programming for Women: A Case Study of Planning Parenting, Prison & Pups--Waiting to 'Let the Dogs In'. *Journal of Prison Education and Reentry*, 5(2), 101-119.

⁵⁹ Newman, C., Fowler, C. and Cashin, A., (2011). The development of a parenting program for incarcerated mothers in Australia: A review of prison-based parenting programs. *Contemporary Nurse*, 39 (1), pp.2-11.; Armstrong et al., (2018)

⁶⁰ Armstrong et al., (2018)

⁶¹ Andrews, E., & Coyne, J. (2018). Travelling the circle together, solo: An individual protocol for the Circle of Security intensive intervention. *Journal of clinical psychology*, 74(8), 1-13.

In our experience, waitlists for parenting programs can be lengthy and their effectiveness is limited by only having several sessions. We advocate for the expansion of parenting programs within custodial settings with additional sessions offered once the parent leaves custody to ensure they remain engaged and supported through the transition period.

The use of technology

It is important to note that in-person prison visits can be confronting for children and families due to nature of the prison environment and limit connection and interactions. On the other hand, we have seen the effectiveness of technology use in prison during COVID-19 to maintain the parent-child connection. Anecdotally, our participants have significantly benefited from video calls with their children as well as opening up more communication with their partners. This technology should be widely implemented and expanded. Additionally, we believe that embedding the 'principle of normalcy' and the Mandela Rules in Victorian prisons can create a safer and more home-like environment. This in turn can facilitate more meaningful and effective prison visitations and better maintain the crucial child-parent connection.

Meeting the needs of parents in custody

In taking an integrated child and family approach to minimise the impacts of parental imprisonment, a parent should be provided with the adequate supports to therapeutically address the underlying drivers of their offending. Many people in prison have multiple and complex needs, including cognitive disability, mental illness, socioeconomic disadvantage and histories of trauma.⁶² A therapeutic approach is key to addressing these needs and supporting a parent to rehabilitate while in custody.

Jesuit Social Services is concerned that custodial staff may at times lack the appropriate training to respond to these complex needs which may further contribute to how these needs present. In Norway, correctional staff are required to undertake a minimum of two years paid training. Entrants are screened for life experience and positive, humanistic attitudes. A major focus of the training is to build capacity of correctional staff to engage and build relationships with people.⁶³

We call on the Victorian Government to introduce a minimum workforce qualification for all custodial prison staff that addresses the challenges and emphasises the impact the role can have on rehabilitation and community safety. This training must be delivered by experienced and qualified instructors through an accredited provider; be part of a program of ongoing professional development; be complemented by expert practitioners; and supported by regular supervision and support. This must encompass training to meet the specific needs of people in prison as outlined in further detail below.

It is critical for the specific needs of men and women to inform the rehabilitative and therapeutic supports they receive while in prison and while transitioning out of the justice system. Based on our 'Man Box' research we recommend a gender-responsive approach to men in prison, especially in relation to addressing underlying attitudes and behaviours, mental health problems and suicidal ideation among men who have perpetrated violence, including violent crimes against women.

⁶² Australian Institute of Health and Welfare (2019). The health of Australia's prisoners 2018. Cat. no. PHE 246. Canberra: AIHW. ([Weblink](#))

⁶³ Jesuit Social Services (2017). #Justice Solutions Tour Expanding the Conversation. ([Weblink](#))

To add to this, for women, the disproportionate gender ratio of male staff in female prisons greatly hinders the capacity of incarcerated women to rehabilitate, with implications for recidivism. This could be addressed through achieving a balanced gender ratio. The New Zealand Ombudsman has previously suggested a ratio of 70:30 female to male staff.⁶⁴ This is particularly important in the context of emergency response teams, as the possible use of physical force or restraint from male staff of women in prison may compound trauma for those who have experienced violence before.⁶⁵ The establishment of a gender balance of corrections staff across all levels, seniority and roles would help women to feel safe, supported and secure while incarcerated.

Jesuit Social Services calls for a gender-responsive approach to men and women in prison that meets their specific needs, particularly in the context of recruitment and training of correctional staff, reception; transportation; physical and mental wellbeing; education, employment and program treatment; security; and parenting.

Support for grandparents and carers

While a parent is in custody, children are often cared for by grandparents and carers from the wider family. Through our experience in providing practical support to parents who are in custody, we have seen the challenges faced by the person's family when caring for their children in the community. We therefore advocate for greater financial support to be provided for grandparents and carers as well as programs that can assist grandparents and carers during the time that a parent is incarcerated.

We recommend that the Victorian Government:

- Embed the 'principle of normalcy' in Victorian prisons and redesign prisons to be small, home-like facilities.
- Facilitate effective programs that maintain and strengthen the crucial relationship between incarcerated parents, especially mothers and their children.
- Strengthen therapeutic supports in prisons to promote rehabilitation so parents can address the factors contributing to their offending while in custody.
- Implement tailored, gender-specific approaches are required for both men and women in custody.
- Introduce a minimum workforce qualification for all custodial prison staff.
- Develop a gender ratio for the workforce in women's correctional facilities to ensure women receive gender-informed support.

⁶⁴ Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

⁶⁵ Ibid.

Keep them supported: Transitions back to community

Expand transitional supports

People exiting prison are some of the most vulnerable and disadvantaged members of the Victorian community, yet the limited support available to them means they often cycle through the justice system over and over again. The Victorian *Ombudsman's Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria* completed in 2015 reported that only 700 of the approximately 6,600 people who leave prison each year (i.e. less than 11 per cent) receive between 3 and 22 contact hours of support.⁶⁶ The limited nature of support means people exiting prison do not have the opportunity to adequately address the problems they face, including their offending behaviour, and this, in turn, exacerbates their likelihood of reoffending.

People leaving custody often experience homelessness, poor mental health, and high rates of illicit drug use thereby increasing the likelihood of recidivism in the months following release from prison.⁶⁷ These needs and challenges must be addressed for everyone, but in particular for parents who are exiting custody to have the best chance of positively reconnecting with their children and families.

ReConnect

Jesuit Social Services' transitional support program [ReConnect](#) is delivered across Melbourne's north and western regions, as part of the Corrections Victoria Reintegration Pathway. ReConnect supports high risk and high-profile adult men and women to transition from prison to the community by providing case management. The program has shown to improve outcomes for families of people exiting prison, as well as the communities they are returning to. Our participants have reported positive outcomes after being supported through ReConnect, some of these include:

"They helped me with the practical things that I needed in order to live my life and move forward."

"Self-esteem. Just leading me the way – I've never had a social worker or anything like that and so the encouragement and support was really important."

"My personal wellbeing – basically a secure place over my head and helping me getting back in touch with friends, and better mental health."

A number of health needs should be addressed through transitional support programs, including physical health, mental health, social disadvantage and substance use. People exiting prison commonly experience complex health issues, including blood-borne viruses such as hepatitis C, chronic mental illness, substance dependence, acquired brain injury, cardiovascular disease, asthma and diabetes.⁶⁸ A **Community Health Nurse (CHN)** was embedded in Jesuit Social Services' ReConnect program to work with participants to improve health outcomes and increase links with community health services upon

⁶⁶ Victorian Ombudsman (2015). *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, September 2015. Melbourne: Victorian Ombudsman. ([Weblink](#))

⁶⁷ AIHW (2019). *The Health of Prisoners 2018*. ([Weblink](#)); Jesuit Social Services (2018). *All Alone: Young adults in the Victorian justice system*. ([Weblink](#)); Victorian Ombudsman (2015). *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*. ([Weblink](#))

⁶⁸ Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*. Cat. no. PHE 246. Canberra: AIHW.

release. This pilot was a partnership between Jesuit Social Services, St Vincent's Hospital Melbourne, Bolton Clarke, and the Justice Health Unit at the University of Melbourne. The CHN provided direct clinical nursing assessment and care, increased clients' health literacy and patient activation and built capacity within the ReConnect team to better equip staff to meet the health needs of participants.

Preliminary findings of the pilot found that close to one quarter of participants boosted their participation with healthcare after engaging with the CHN. ReConnect staff and stakeholders also reported that the CHN supported health and wellbeing of participants across five key domains: help in navigating the health system, health and medical knowledge transfer, empowerment, more timely healthcare and flow-on effects from better health. It is critical to ensure that people have access to the support they need both while in prison and upon their release. In addition to helping people to address and manage their needs, this ultimately makes our communities safer by preventing further offending.

For transitional programs to be most effective, they should commence before release and continue post-release. Further, links between in-prison and community-based health and mental health services need to be strengthened to ensure continuity of supports. We strongly advocate for the expansion of transitional support programs specific to the individual needs of parents leaving custody, that aim to enable the successful reintegration of parents into the community, thereby reducing recidivism and allowing reconnection with family and community.

Meeting the housing needs of parents leaving custody

As indicated, access to safe, stable and affordable housing is critical for men and women leaving prison and a successful transition back into their community of choice. One-third of people exit the justice system into homelessness.⁶⁹ A key finding of the *Inquiry into Victoria's Justice System* was that stable, safe and secure housing allows people leaving custody to seek education and employment, rebuild connections with family and community, and engage with therapeutic supports that can address the underlying drivers of their offending.⁷⁰

Given the importance of housing and other transitional supports it is critical they are culturally safe and respond to the specific needs of vulnerable cohorts. The Victorian Aboriginal Legal Services co-delivers the program Baggarrook which supports highly vulnerable Aboriginal women as they transition from prison.⁷¹ Each program participant is provided with transitional housing, and a model of culturally appropriate holistic support.

Maribyrrong Community Residential Facility

Jesuit Social Services has partnered with the Victorian Government to launch the [Maribyrrong Community Residential Facility](#) (MCRF) aimed at adult men exiting prison. MCRF accommodates up to 44 people, including those who have recently been released from prison and who are on parole. Support for participants includes pre- and post-release case management and transition support, access to longer term housing, assistance to attend health services, access to learning and vocational

⁶⁹ AIHW (2019). *The Health of Prisoners 2018*. (Weblink); Parliament of Victoria. (2022). *Inquiry into Victoria's criminal justice system*. Legal and Social Issues Committee. (Weblink)

⁷⁰ Parliament of Victoria. (2022). *Inquiry into Victoria's criminal justice system*. Legal and Social Issues Committee. (Weblink)

⁷¹ VALS. (2022). *Baggarrook*. (Weblink)

opportunities, and links to cultural support. A community health nurse also provides healthcare for adults transitioning from prison to the community.

Feedback from the MCRF participants during the first 12 months of the program's operation has been extremely positive. Participant Christian (not his real name) says the support of staff at the facility has been crucial in helping him to turn his life around:

“They have not only provided me the environment to recover, but also enabled me to accelerate my ability and hope to return to a normal life and a career”.

With the provision of safe and stable housing as a foundation, we can tackle the issues contributing to a parent's offending behaviour, developing solid skills that put them on a more positive pathway to finding their feet and positively reconnecting with their family. Jesuit Social Services commends the Victorian Government for committing to fund the MCFR in the 2022-23 Victorian budget. We call for the expansion of this mode for other vulnerable cohorts such as Aboriginal women so that no one exits prison into homelessness.

Working restoratively to repair relationships

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.

Supported by Jesuit Social Services' *Our Way of Working* practice framework, our program delivery is informed by the use of restorative principles, process and practice.⁷² We believe that all people are inherently relational, formed in family and part of a wider community. In the interventions we offer, we accompany people and communities to foster and regenerate the web of relationships that sustain us all – across people, place and planet. Ultimately, what we are trying to do is restore a person who has engaged in harmful behaviours back to their family, to their community and to themselves, and to prevent them from further contact with the justice system wherever possible. Taking a person-centred approach and working restoratively has the potential to repair strained relationships within the family and facilitate healing and wellbeing.

Taking a gender responsive approach

There are certain universal supports, such as safe and secure housing and transitional supports, that are essential for all people leaving custody. However, we further advocate for a gendered approach given some of the differing challenges and needs experienced by mothers and fathers.

Mothers

As discussed earlier, incarcerated women and mothers are much more likely to have had a traumatic past due to homelessness, family violence and abusive relationships. While by no means deterministic,

⁷² Jesuit Social Services (2018). Foundation Document. ([Weblink](#))

such experiences can also have implications for alcohol and drug addiction as well as poor mental health and wellbeing. Currently, there is very limited tailored flexible transition support available to women. Women exiting custody need access to safe and supported housing to be able to establish themselves and reconnect with children and family. They must also be supported with interventions that address any experiences of trauma and any substance misuse needs.

Jesuit Social Services calls for increased resourcing for transitional support for women, in particular Aboriginal women who experience additional vulnerabilities due to colonisation and are overrepresented in the justice system. We call for investment in a facility such as MCRF specific to the needs of women which can provide specialist housing along with gender specific, therapeutic and independent living support.

Support to reunify with children and family

At the MCRF, we have anecdotally observed that navigating the child protection system can be particularly challenging for fathers exiting custody who are seeking to reconnect with their children. For example, often fathers have to meet conditions attached to intervention orders before having contact with their children. Jesuit Services staff at the MCRF provide extensive support to fathers in navigating the child protection system. Where appropriate, staff also assist with family reunifications. Jesuit Social Services staff will liaise with and advocate to the Department of Families, Fairness and Housing on behalf of participants. This has a significant impact on the successful reconnection with family and their community. One participant of MCRF, Dave (not his real name) reported how the program changed his life:

“Before coming out of jail - coming into the centre I wasn't in a hurry to get out because I didn't see much of a future. I sort of do now and my ex-partner now lets me see my daughter any day of the week. I've changed my life. I've stayed out of prison. I've stayed clean. I'm looking for a better future. Usually I'll get out of prison and I'll use - going back to what I do. Usually I wouldn't get parole. This time I had somewhere to go. I had something over my head when I got out of prison this time so it helped me stay on the right path.”

We recommend that the Victorian Government:

- **Provide funding to deliver specific models of supported, transitional housing for parents leaving custody.**
- **Invest in restorative approaches to repair relationships between parents, children and families.**
- **Increase resourcing for transitional support for women, in particular Aboriginal women.**
- **Commit long term resourcing for transitional support programs such as the Maribyrnong Community Residential Facility, with investment in a facility modelled on this to meet the specific needs of women.**