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Submission to the Inquiry into Support for Children of Imprisoned Parents in New South Wales

My name is Karleen Gribble. I am an Adjunct Associate Professor in the School of Nursing and Midwifery at Western Sydney University. My expertise includes children's rights; the impact of breastfeeding on child health and maternal behaviour; child-caregiver and caregiver-child attachment; and the treatment of infants and young children within the child protection, immigration detention, and criminal justice systems. I have published research on these subjects in peer-reviewed professional psychological, social work, and health journals. I have engaged in the training of health professionals, social workers, and humanitarian workers on these subjects. I have provided expert reports to court to assist in decision-making concerning the sentencing of women who are mothers of infants. I am a respected, and internationally recognised, academic in the infant nutrition and child-care fields. I would like to comment on the situation of infants and young children whose mothers are incarcerated and the support or undermining of their health and wellbeing in the justice system in Victoria.

This submission will discuss:

- Number of mothers of infants and young children incarcerated in Victoria
- The importance of breastfeeding for child health and maternal caregiving
- The impact of maternal separation on infant mental health
- Impact of maternal incarceration on infants and young children where infants are separated from their mothers
- Impact of maternal incarceration on infants and young children where infants are able to reside with their mothers
- Avoiding incarceration
- Comments on the *Commissioner's Requirements for the Living with Mum Program*
- Comments on the *SIDS & KIDS SAFE Sleeping Policy and Agreement*
- Recommendations

Number of mothers of infants and young children incarcerated in Victoria

- Data on the number of children impacted by maternal incarceration in Victoria is not published but hundreds of infants and young children are likely impacted by maternal incarceration each year.
- Likely one third or more of children impacted by maternal incarceration are Aboriginal.

As far as I have been able to determine, data on the children of incarcerated women is not systematically collected, or if it is collected it is not published. It is therefore not possible for me to say how many infants and young children have their mothers incarcerated in Victoria. Western Australian research identified that over a 26 year period (1985-2011), 5033 children from birth until four years experienced their mother being incarcerated[1]. Extrapolating this data to Victoria would suggest that there are more than 200 children from birth to four years of age who experience maternal incarceration in Victoria each year[2]. Likely more than one third of these children would be Aboriginal due to their mother or father's Aboriginality[2].

Breastfeeding is important to the health and development of children

- International and national recommendations are that infants be breastfed
- Premature cessation of breastfeeding results in increased infectious disease, non-infectious disease, and SIDS as well as impaired cognitive development
- Children hold rights in relation to breastfeeding under the United Nations Convention on the Rights of the Child
- The National Breastfeeding Strategy states that mothers who interact with the justice system should be supported to breastfeed, including in prisons

Breastfeeding supports the optimal health, growth and development of children and for this reason the World Health Organization and UNICEF recommend that infants be exclusive breastfed for six months and then continue to be breastfed, with the addition of appropriate complementary foods, for up to two years or more [3]. Australian national recommendations similarly recommend that all infants be exclusively breastfed for around six months and continue breastfeeding into their second year [4]. Not being breastfed places children at a health and developmental disadvantage. In developed country contexts like Australia, children who are fed infant formula in preference to being breastfed are three to five times more likely to be hospitalised in infancy due to infections as compared to children who are fully breastfed [5 7]. It has been calculated that half and one third of hospitalisations of infants in the UK are due to gastrointestinal disease and lower respiratory tract infections resulting from early cessation of breastfeeding [7]. Rates of infection are highest in children living in impoverished households [8]. The use of infant formula is also associated with an increased risk of non-

infectious diseases such as otitis media, allergic diseases, type 1 and 2 diabetes and childhood leukaemia [9]. In addition, early cessation of breastfeeding is associated with impaired cognitive development [10] and obesity [11]. Most alarmingly, infants who are not breastfed are at increased risk of death in the first year of life [12 14].

Children hold rights in relation to breastfeeding under three clauses of Article 24 of the United Nations Convention on the Rights of the Child (UNCRC). First, the UNCRC states that: *"State parties recognize the right of the child to the enjoyment of the highest attainable standard of health." (Article 21(1))* As previously described, optimal health is only possible where infants are breastfed as recommended as infants that cease breastfeeding early are at increased risk of infections and impeded development. Second the UNCRC requires states to take appropriate measures to *"combat disease and malnutrition…through the provision of adequate nutritious foods" (Article 24(2c))*. In developed countries like Australia, arguably the most serious form of malnutrition is obesity [15]. There is a growing body of evidence that formula feeding alters the trajectory of child growth and predisposes individuals to obesity [16, 17]. Therefore, supporting breastfeeding must be considered to be a requirement of this clause of the UNCRC. Finally, states have the responsibility under Article 24(2e) to *"ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding"*. Thus, the UNCRC is explicit in stating that mothers should be supported to breastfeed their children. In Australia, this support is largely through the health system. However, other government systems, including the justice system and the child protection system, as instruments of government, also have responsibilities under this article.

In 2019, the Council of Australian Governments published the Australian National Breastfeeding Strategy. The Strategy exists to shape and inform the Commonwealth, state/territory and local government policy and programs and includes specific direction regarding the justice system. It states as a priority action states should, *"Provide breastfeeding and lactation support and maternal health care to families in exceptionally difficult circumstances…[and] Ensure skilled breastfeeding and lactation support is available to mothers, infants and young children… in the justice system (e.g. incarcerated mothers)."* It is noted that state health, justice and child protection services are amongst the agencies responsible for implementing this support.

Breastfeeding assists mothers in care giving

- Breastfeeding supports mothers to provide their best possible care
- Vulnerable mothers who do not breastfeed or who breastfeed for only a short period are more likely to abuse and neglect their children

- Breastfeeding should be actively supported for women in the justice system who are disproportionately vulnerable because of their history of trauma

Breastfeeding affects the physiology and physical circumstances of mothers in such a way as to assist them to sensitively care for their children [18]. Hormones that are released in response to breastfeeding act on the central nervous system of mothers to promote maternal behaviour [19 22], maintain maternal proximity [23] and reduce women's response to physical and emotional stress [24, 25]. Research has indicated that mothers who are not breastfeeding exhibit dampened responses in brain regions associated with maternal sensitivity as compared to breastfeeding women [26]. Mothers who are not breastfeeding are (as a group) less responsive and sensitive to their babies than women who are breastfeeding [27 33].

The absence of the physiological and physical influences associated with breastfeeding can hamper mother-child attachment, maternal responsivity and reduce quality of care giving in vulnerable women to the point of neglect or abuse. This was demonstrated in a high quality Australian study, where it was found that women who did not breastfeed or breastfed for a short duration were 4.8 times more likely to abuse or neglect their children than women who breastfed their children for a longer duration [34]. This prospective study of nearly 6000 Australian women and their children examined substantiated cases of child maltreatment over 15 years. Even after adjustment for confounding factors, it was found that children who were not breastfed or breastfed for a short duration, were 2.6 times more likely to be maltreated by their mothers than children breastfed for a longer duration. It should also be noted that as a group, incarcerated mothers are at risk of difficulties with parenting because many of them have had past experiences, such as childhood abuse or neglect, that can make caring for children challenging [35]. It is clear that in situations where there may be concerns about maternal caregiving capacity, breastfeeding should be actively supported not just because of its impact direct upon the health and development of the child, but because of the impact on mothers.

Maternal separation and infant mental health

- Children's experiences in the first three years of life profoundly impact their long-term psychological wellbeing and ability to function and contribute to society
- Separation from their mother is very traumatic for infants and young children
- Trauma associated with maternal separation has been linked to adverse consequences including poor mental health, maladaptive behaviours, delinquency, and criminality.
- Maternal separation is a risk factor for poor maternal attachment and child

maltreatment

Infancy and early childhood (0-3 years) is the most important time of a child's life for brain development [36]. During these years, the brain triples in size with the rapid development of the regions dealing with cognitive and social/emotional functioning. This development is largely dependent upon the care that a child receives. In particular, it is during the first three years of life that the child develops the pattern of attachment to their primary caregiver that will influence their perception of themselves, their relationships with others, and their mental health into the long-term [36, 37]. The mental health of an infant or young child is dependent upon the quality of the relationship that they have with their primary caregiver.

Children may develop secure, insecure or disorganised attachments with their primary caregiver. A secure attachment is associated with stress resilience; educational and relationship success; and good mental health [36]. In contrast, insecure or disorganised attachments place children at risk of poor stress resilience; poor educational and relationship outcomes, poor mental health and social dysfunction [37]. The development of a secure attachment relationship requires proximity [38, 39]. Even separations of short duration can have a negative impact. For this reason, the Australian Association for Infant Mental Health recommends that overnight separations (in cases of parental separation/divorce) from primary caregivers should not occur until children are at least three years old [40]. One of the reasons why separations are potentially so damaging to infants and young children is because they do not fully develop object permanence until at least two years of age. Object permanence is the ability to hold representations of things and people when they are not in their presence. This means that when infants and young children are separated from their primary caregiver they have limited ability to hold the memory of them in their minds [41]. Separations of any duration, before children have developed object permanence and have an understanding that maternal absence does not constitute abandonment, can be terrifying for children and adversely impact the relationship between child and mother even if they are reunited [42]. The deleterious impact of the separation of caregiver and child on the quality of child-caregiver attachment is strongly associated with compromised psychological development with lifelong implications [39]. As described by Kenny, *"separations of infants and young children from their mothers for relatively short periods of time can have repercussions that reverberate across the lifespan"* [39].

Early research on the impact of separating infants or young children from their mothers identified that children go through the stages of protest, despair, and detachment/denial [43]. The stage of protest can last from a few hours to several days. During this time children experience confusion, fear and grief and may exhibit frantic maternal seeking behaviour. As time passes, the stage of despair replaces grief and children cry less.

However, reduced crying does not indicate reduced distress but increased hopelessness as they give up on their mother returning to them. Children appear listless and apathetic but there is no way to explain maternal absence to an infant and so no way to provide comfort. The final stage is detachment/denial. In this stage children can appear to be happier, but when they are reconnected with their mother, they may ignore her and show no signs of distress when separated from her again. Such behaviour is a sign that the child has experienced a severe psychological trauma, the impact of which may be persistent [44].

Research has identified a variety of adverse mental health and developmental consequences associated with separating a child from their primary caregiving mother. Children who have previously been securely attached can move to an insecure or disorganised attachment as a result of a short separation[45]. In addition, mother child separation of a week or longer within the first two years of life is correlated with higher levels of child negativity and aggression [46]. Childhood traumas (including maternal separation) predispose the individual to a variety of psychiatric disorders in adulthood such as depression, bipolar disorder, generalized anxiety disorder, panic disorder, phobias, posttraumatic stress disorder, schizophrenia, eating disorders, and personality disorders [47]. Specifically, separation of more than a month in early childhood has been found to be linked to increased rates of, and severity of symptoms of, borderline personality disorder in adolescence and adulthood [48]. Finally, maternal separation is an *"incarceration specific risk"* that has been linked to the maladaptive behaviours in children that are risk factors for delinquency and criminality. It likely accounts for a proportion of the more than double increase incidence of involvement in the criminal justice system of the children of women who have spent time in gaol [49, 50].

Separation from their child also has an impact on mothers. Primary caregivers must develop a strong attachment to their children in order to be able to provide them with the care that they require to be able to develop a secure attachment [51]. Separation of mother and child can have an impact on the mother's ability to attach to them by preventing the proximity, interaction and caregiving that is necessary for attachment development [38]. At its most extreme, lack of caregiver attachment can result in abuse, neglect or abandonment [51]. Keeping mothers and infants together assists in protecting against child maltreatment over the whole of childhood, this is particularly the case where mothers have vulnerabilities as a result of trauma or poverty.

The Impact of maternal incarceration on infants and young children

The impact of maternal incarceration on infants and young children varies dependent on whether the child is separated from their mother or not, how mother and child programs are managed in prison, and what support is available to mothers in prison mother and

child programs.

Where infants and young children are separated from their mothers

- Maternal separation due to incarceration is severely traumatic for infants and young children and usually results in the termination of breastfeeding
- Maternal caregiving capacity is undermined by maternal separation
- The long-term health, development and wellbeing of infants and young children is negatively impacted by maternal separation due to incarceration

Infants and young children separated from their primary caregiving mother will experience this separation as a severe trauma. Their young age and stage of development means that they are not be able to hold a concept of her in their minds nor understand that separation is temporary. It causes emotional harm. Repair of the relationship between infants and young children and their mothers can be difficult and children's development and mental health may be adversely impacted in the long term. It needs to be considered that children's timeframes are not adult timeframes and for example, a one month of separation for a two month old baby is half their life, it is not a short time.

Separation of infants from their mothers because of incarceration lasting weeks or months will, in the vast majority of cases, mean that babies under six months of age will not be able to have breastmilk as their only food as recommended by health authorities. In addition, while some women may be able to maintain partial breastmilk feeding for their babies, in most cases, the difficulty of maintaining expressing of breastmilk in the prison environment, will eventually result in the full formula feeding for infants. The deprivation of exclusive or any breastfeeding for infants increases the risk of adverse health outcomes for them in the short and long-term.

Separation from their infants and termination of lactation, also makes it more difficult for mothers to care for their children if and when they are reunited. Particularly where women have experiences of trauma themselves, or experience poverty, poor mental health, or high levels of stress, this undermining of maternal caregiving capacity will be enough to result in some women not being able to provide good enough care for their children. The high rates of trauma, poor mental health, and poverty in the population of women who are incarcerated makes the undermining of maternal capacity particularly impactful for this group. Maternal separation because of incarceration thus places infants and young children at risk of abuse and neglect by their mothers with associated negative flow ons including being taken into the out of home care system and future criminality.

Where infants and mothers are not separated

- Maternal separation can be avoided through prison mother and child programs
- The most important factor for infant wellbeing is to be able to maintain proximity to their mother and for her to be responsive to them
- The institutional environment of prisons can work against mothers providing responsive caregiving in mother and child programs
- Programs that provide individual support for mothering in prison can have a profound positive impact on maternal caregiving and infant mental health

Maternal separation can be avoided where mothers are able to reside with their children in prison mother and child units. Prison mother and child programs exist in recognition that children should not be punished or avoidably disadvantaged as a result of the wrongdoing of their mother [39]. Within a human rights framework, the circumstances and vulnerabilities of the child, justify specific efforts by governments to ensure conditions for adequate pregnancy care, birth support and post-birth care of the children of incarcerated mothers [52]. As a result, the stated central factor in decision making concerning prison mother and child programs is the best interests of the child[52].

Prison mother and child programs seek to mitigate against the impact of maternal incarceration on children by enabling mothers to keep their children with them in order to facilitate breastfeeding and the development of a secure attachment between mother and child[39, 53]. However, the success of mother and child units in prisons in achieving this depends greatly upon how the program is delivered. Concerns are sometimes expressed about infants and young children residing in a prison environment. However, infants are largely unaware of their physical environment. The most important thing to them is the presence or absence of their mother and her responsivity to them. If they are with their mother and she is responsive to them, then the world is a good place regardless of any other factors in the environment. There is therefore nothing inherently concerning about a baby or very young child being exposed to a prison environment. However, the prison environment can have an impact on the ability of women to be emotionally available and to provide responsive care to their infants and young children. I would like to alert the Committee to the research by Walker et al. [54] on the experience of women of mother and child units in Australian prisons. As noted, by these researchers, the institutional environment in mother and child units and associated factors such as the level of surveillance and stress, can make it difficult for mothers to care for their children [54]. Unfortunately, sometimes mother and child units keep mothers and babies together but do not take sufficient action to mitigate against the institutional environment of prison nor mitigate against the mother's history of trauma that undermine parenting capacity.

Simply housing babies and young children with their mothers in prison, is not enough.

Rather, what is needed in mother and child units is specific support to mitigate against the institutional environment and to support mothers in their caregiving. Such support can have a truly impressive positive impact on maternal caregiving capacity and infant mental health. Research by Byrne et al. [55] found that infants in a prison mother and child program that provided individualised parenting support and guidance had mental health (measured in terms of security of attachment) at rates that were comparable with low risk community samples [55]. These high rates of secure attachment were despite mothers having high rates of insecure internal attachment representation themselves. Significantly, the rates of secure attachment in infants were greater where mothers were incarcerated for longer suggesting that it was the prison mother and child unit program that fostered and enabled mothers to provide responsive caregiving to infants[55]. Prison diversion programs integrated with attachment-based parenting support have also been demonstrated to be beneficial to infant mental health [56]. Such programs are lacking in Australia. Walker et al. stated that no Australian prison has an attachment-focused program developed for women in prison with their children[54]. This is a missed opportunity in terms of breaking the cycle of intergenerational trauma, disadvantage and criminality for the children of incarcerated women in Victoria That this lack disproportionally impacts Aboriginal children should weigh heavily.

Avoiding incarceration

- Avoiding incarceration of the mothers of infants and young children is the best option
- Expert reports regarding the impact of incarceration of children should be made to assist in sentencing decisions regarding a primary caregiver of a child

It is generally understood and well established that avoidance of maternal incarceration is the best option for children. It is my experience that judges take the impact of maternal incarceration on infants and young children seriously when it is presented to them. I provide as an example a case I was involved with where sentencing was being considered for a woman who was a mother of an exclusively breastfed four month old infant. If the woman was sentenced to incarceration, her infant would have been separated from her for a matter of weeks to months as in this jurisdiction, application to the gaol mother and child program could only be made after incarceration. I provided an expert report for this case that outlined the likely impact of maternal incarceration on the infant. In sentencing, the judge seriously considered the impact of maternal separation on the infant and as a result the woman was sentenced to home detention

and was not separated from her mother. The sentencing remarks make clear how seriously the judge took the impact of maternal incarceration on the infant stating, *"Under the Misuse of Drugs Act, I am obliged to impose a period of actual imprisonment of no less than 28 days, unless having regard to the particular circumstances of the offence or the offender, I am of the opinion that such a penalty should not be imposed. We have spent a great deal of time throughout this sentencing process discussing whether or not the fact that the offender has a small baby, who she is apparently breastfeeding, would amount to those exceptional circumstances. I must say I found it extremely difficult to accept that such was the case… However, against my better judgment, I have decided that having a baby who is currently been breastfed does at least or is capable of constituting the sort of exceptional circumstances that would enable me not to sentence the offender to a term of at least 28 days' actual imprisonment. Had it not been for that, it would have been my view that the offender ought to serve at least six months of the term of imprisonment that I am going to impose."*

As appears to be the case in Victoria, there was no process of advocacy for the infant that was inherent to the justice system in this case. However, the woman's lawyer was unusually diligent and persistent in advocating for his client in relation to her baby. The impact of maternal incarceration on children should not be left to chance in this way. Rather it should be routine that reports regarding the impact of incarceration on children are provided by suitably qualified experts to assist in sentencing decisions regarding a primary caregiver of a child.

Comments on the *Commissioner's Requirements for the Living with Mum Program*

- The Living with Mum Program should prioritise the rights and needs of infants and young children around breastfeeding, attachment and development.
- Policies and procedures to support breastfeeding and the expression, storage and transport of expressed breastmilk are inadequate
- The Living with Mum Program lacks an individualised, attachment-focussed program to support women in their mothering

My comments here are based on the Corrections Victoria *Commissioner's Requirements for the Living with Mum Program* [57] and my experience with policy and practice in other Australian jurisdictions (particularly NSW and the NT). Unfortunately, the Corrections Victoria's *Mother and Children Service Delivery Framework 2020* does not appear to be publicly available, so I am not able to consider its contents in my submission.

I would like to commend Corrections Victoria for particular aspects of the policy

document *Requirements for the Living with Mum Program*. First, transparently providing such detailed policy regarding the Living with Mum Program is to be commended. Second, placing the Living with Mum Program within a human rights framework is also to be applauded. Third, I would like to acknowledge that giving priority to breastfeeding children for entry into the Living with Mum Program (noted in 5.15.2) is appropriate. Fourth, that mothers are not excluded from participating in the Living with Mum Program due to health or drug treatment needs or offending history (noted in 5.9.4) is laudable.

However, there are a number of aspects of the Living with Mum Program that are, in my view, not appropriate or not sufficient.

It appears that the normal procedure is that women must be incarcerated before they apply to and can be approved for the Living with Mum Program. This means that infants and young children who have been born before their mother's incarceration are separated from her while an application process and assessment is undertaken. I do not know how long this application and assessment process takes but in similar programs in other jurisdictions it takes weeks to months. For infants and very young children, as previously described, such separations from their mother will be extremely traumatic with potentially long-term adverse ramifications. There appears to be a process that enables mothers and children to enter the Living with Mum Program before a formal assessment is made. This is described in 5.11 of *Requirements for the Living with Mum Program* as "emergency reception." Emergency reception is noted as only applicable when there "is no alternative available caregiver." This requirement is developmentally inappropriate for infants and very young children as they cannot simply exchange their primary caregiving mother for another caregiver without experiencing significant trauma. In addition, no mechanism is described whereby women who may be sentenced to a custodial sentence are made aware of the Living with Mum Program prior to sentencing.

It is noted in 5.7 that the Living with Mum Support Worker must have appropriate child welfare qualifications but there is no detail on what these qualifications are, this could reasonably be interpreted to mean child protection qualifications (i.e social work). It os not clear that they would need to have expertise on child development or maternal or child health. The requirements for this vital role should be strengthened.

The Operational Steering Committee (described in 5.8) decides whether applications to the Living with Mum program should be approved. However, in my view this Committee does not have sufficient members with maternal health, child development, or parenting expertise. This would make it difficult for the Committee to properly assess what constitutes the best interests of children. I would suggest that a midwife and child and

family health nurse who work with incarcerated women and their children be added to this Committee.

Section 5.15.1 states that the the child's physical, intellectual and emotional needs should be considered in decisions concerning a child's entry into the Living with Mum Program. I would suggest that the child's developmental needs (including the ramifications of maternal separation) should be also considered.

Section 5.2.4 describes procedures if a child needs to be hospitalised. There is no provision in this policy for mothers to be with their children if they are admitted to hospital. It should be considered how this might be facilitated, particularly for infants and very young children. Keep in mind that when children are ill or distressed the presence of their primary caregiver is vital. Hospital staff cannot provide emotional care to children and infants and young children who are in hospital (see here for an example of the experience of infants hospitalised without their mothers in Australia [58]). Without the presence of a caregiver, children in hospital experience institutional neglect which can have a long-term adverse impact on their development and emotional wellbeing.

Section 5.27.1 of the *Requirements for the Living with Mum Program* notes that postnatal care must be provided to a community standard and section 5.27.2 notes that breastfeeding mothers should be provided with appropriate support. However, there is no provision for women to access mother-to-mother breastfeeding support or antenatal breastfeeding classes and no note made of whether, when and how women can access the National Breastfeeding Helpline. These supports are important. It should be understood that breastfeeding is more important for this group of women and infants than generally is the case because of maternal vulnerability.

Section 5.29 says that there should be *"support for the mother who wishes to express milk for her infant, even if the infant will not remain in her care"* but does not detail what these supports should be. My experience in other jurisdictions has been that without policies and procedures laying out requirements for support around milk expression, storage and transport, women are not consistently provided with appropriate support to express and store breastmilk and milk is not reliably transported to infants. Policies must exist in Corrections Victoria and the Department of Families, Fairness and Housing (in their responsibility for child protection and foster care) on this matter. There should also be appropriate policies in place to enable breastfeeding during visits where infants reside in the community.

Section 5.31 of the *Requirements for the Living with Mum Program* states that programs to assist mothers in improving their parenting skills should be available. However, this is not sufficient for women who are in the Living with Mum Program with their children. These women are in need of intensive support integrated within the Living with Mum

Program to mitigate against any vulnerabilities they might have and to mitigate against living and caring for their children within the prison. Please refer to the above text regarding the need and value of intensive attachment-based programs for incarcerated mothers and their infants and young children.

Comments on the *SIDS & KIDS SAFE Sleeping Policy and Agreement*

- The *SIDS & KIDS SAFE Sleeping Policy and Agreement* requires women to sign an undertaking that they will not sleep with their baby at any time and acknowledging that if they do so they and their child may be removed from the Living with Mum Program.
- Requiring women to not sleep with their infant is dangerous as it risks the getting up at night to feed their infants and falling asleep on a sofa or chair.
- Women should not be required to undertake not to sleep with their child.
- Women should be explicitly encouraged to breastfeed in order to reduce the risk of SIDS and to promote infant health and their own mothering capacity.

Women who are approved for the Living with Mum Program must sign a document called the *SIDS & KIDS SAFE Sleeping Policy and Agreement.* It is made clear that not following this agreement places the woman and child's position in the Program in jeopardy and may result in removal from the Living with Mum Program and maternal-child separation. The Agreement includes the statement that, *"Infants are not to co-sleep or bed share at any time. They must sleep in their cot."*

While the intention of this requirement is clearly to protect infants from SIDS (Sudden Infant Death Syndrome) or other SUDI (Sudden Unexpected Death in Infancy), it is in fact placing infants at risk. Australian recommendations are that it is safest for infants to sleep in a cot, but it is also recognised that for a variety of cultural reasons, infant characteristics, and maternal caregiving practices it is extremely common for mothers to share their bed with their infants. Research from Queensland found that bedsharing was usual practice for 46% of mothers and infants [59] and other Australian research has found a cobedding prevalence of 40-80% [60]. Mother-infant bed sharing is common because it is adaptive to maternal and infant physiology, especially when infants are breastfed. Absent risk factors such as maternal alcohol, sedating drug consumption or smoking, bed sharing is not inherently dangerous. As stated by one expert research group, *"It is now clear that bed-sharing on its own does not substantially increase the risk of SIDS, but bed-sharing in conjunction with other hazardous circumstances for instance smoking, alcohol consumption, drug use, and ad-hoc sleeping arrangements (e.g., sofa sharing) are clearly implicated"*[61].

As noted, sleeping on a sofa is an inherently dangerous practice and so should be strongly discouraged. However, absolute recommendations against bed sharing, lead to women falling asleep with their babies on sofas and chairs. To understand why women fall asleep when caring for their infants overnight, it is necessary to understand infant behaviour and maternal physiology. It is not unusual for infants to wake many times (up to 10 or more) a night for feeding or comfort. This is very tiring for mothers. In addition, during breastfeeding a sleep-inducing hormone called cholecystokinin is released in women which further encourages them to fall asleep while feeding. Research from the USA found that half of women with infants 0-6 months reported falling asleep while feeding their baby, and that they were most likely to fall asleep if they were breastfeeding.[62] In addition, while they were most likely to fall asleep while lying down, more than 40% of women reported falling asleep while sitting up reflecting the proposition that getting up to feed their infant is not a guarantee of not falling asleep. Any policy that encourages women to get up from their bed at night to feed their infant, risks them falling asleep on a sofa, an environment that cannot be made safe, rather than falling asleep in a bed, an environment that can be made acceptably safe.

In the UK, public health campaigns of the 1990s that were absolutely against bed sharing were found to be correlated with a rise in deaths of infants on sofas[63]. The researchers noted that *"a number of families whose infants died informed us that they had been advised not to bed-share and thus fed the infant (and fell asleep) on a sofa"* [61]. As a result of these findings, the UK moved towards more nuanced, and evidence-based, recommendations regarding infant sleep [64]. In Australia, while mothers are informed that it is safest for infants to sleep in a cot or bassinet in their mother's room[65], they are also provided with information on how to safely share a bed with their infant [65]. The American Academy of Pediatrics notes that it is less dangerous for a mother to fall asleep while feeding their baby in an adult bed than on a sofa or armchair, and states that anticipating the possibility of falling asleep in bed, mothers should prepare their bed for falling asleep by removing known hazards [66].

I would direct the Committee to the Red Nose research summary on cosleeping for further information [67] but would emphasise the inappropriateness of the current prohibition of mothers sharing a bed with their infant in the Living with Mum Program. This policy is placing infant's lives at risk and should be rescinded.

Another concerning aspect of the *SIDS & KIDS SAFE Sleeping Policy and Agreement* is the stated neutrality concerning infant feeding method. The policy states, "*Infant feeding matters: Each woman's circumstances are different. Women will be supported in their decision to either breast or formula feed their infant."* While it is absolutely the case that each woman's situation is different and that women should receive support in the feeding of their infants regardless of method, the Living with Mum Program should

explicitly encourage women to breastfeed. Lack of explicit support regarding breastfeeding in the *SIDS and KIDS Safe Sleeping Policy and Agreement* is mystifying. An abundance of research demonstrates that formula feeding is associated increased risk of post-neonatal death in infants, including via SIDS. Breastfeeding is protective against SIDS, particularly when it is exclusive and infants who are not breastfed are more than three times more likely to die due to SIDS than exclusively breastfed infants [68]. Breastfeeding is the sixth recommendation for safe infant sleep as outlined by Red Nose [69].

Recommendations

On the basis of my knowledge of child development and health and my experience with justice systems in Australia, I make the following recommendations:

1. Data should be collected, collated, and published on whether, at the point of incarceration, women are pregnant or are mothers, the age of their children, and whether they were the primary caregiver of their children and/or breastfeeding at the time they were incarcerated. At the time women exit prison, data on the length separation from their children should be included in the data set. If children were permitted to reside with their mothers in prison this information should also be included. The data should be collected in such a way as to allow the experience of the children as well as that of the mothers to be quantified and described including whether children have experienced their mother being incarcerated on multiple occasions.
2. Active steps be taken at the earliest possible stage, to identify whether a woman is the primary caregiver of an infant or young child. If possible, this should occur before sentencing, and most certainly at the point of incarceration. Where a woman is identified as the primary caregiver of a young child, this should automatically trigger a process of exploration of whether application to the Living with Mum Program is appropriate.
3. The qualifications requirements of the Living with Mum Support Worker should be strengthened to ensure that they have expertise in child development and maternal and child health. The Operational Steering Committee should have a midwife and a child and family health nurse added to it.
4. Children's rights to breastfeeding and health should be part of the legal framework for entry to the Living with Mum Program and child development needs (including the ramifications of maternal separation) should be added as a consideration for decisions regarding entry to the Program.
5. An individualised, attachment-focused parenting program should be integrated into the Living with Mum Program with the goal of assisting women to provide responsive care to their infants and young children. If any such program was to

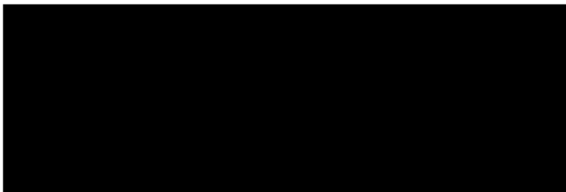
be instituted, data collection should be included so as to enable evaluation of effectiveness.

6. Breastfeeding support should be integrated into the Living with Mum Program. Such integration should include access to antenatal breastfeeding classes and mother-to-mother breastfeeding support via the Australian Breastfeeding Association (including 24 hour access to the National Breastfeeding Helpline).
7. Provision should be made for maternal presence where an infant or young child is hospitalised.
8. Incarceration of pregnant and breastfeeding women should avoided where ever possible.
9. In the sentencing process, the needs of infants and young children should be represented in the court and the likely impact of different sentencing options be presented to judges by suitably qualified, independent and knowledgeable experts.
10. It should be standard that applications to the Living with Mum Program can be processed before sentencing where there is the possibility of a custodial sentence for a woman who is the primary caregiver of an infant or young child. Alternatively, processes should be instituted to enable women who have been sentenced to a period of incarceration to remain in the community while and until, their application to the Living with Mum Program is processed so that infants and very young children are not separated from her due to procedural reasons.
11. A review of applications made to the Living with Mum Program over the last five years should be undertaken to identify how many applications have been made, how many have been approved, how many have been rejected, and the reasons for rejection with the goal of determining how access to the Program may be improved.
12. Policies and procedures should be developed to ensure that lactating women separated from their infants and young children have access to continuing skilled lactation support from an International Board Certified Lactation Consultant.
13. Policies and procedures should be implemented to ensure that all lactating incarcerated women in Victorian prisons have easy and timely access to a breastpump, a space for expressing milk and, a freezer for the storage of expressed milk and that expressed breastmilk is transported in a timely manner to caregivers in the community.
14. An appropriate environment, including support and female supervision, should be provided to mothers who wish to breastfeed their infants or young children during prison visits.
15. The requirement in the *SIDS & KIDS SAFE Sleeping Policy and Agreement* that women must not cosleep with their infant must be removed. Rather women

should be provided with evidence-based information on infant sleep environments including how to make their bed safe in the event that they fall asleep there with their infant. They should also be advised of how breastfeeding protects infants against SIDS.

Conclusion

The infants and young children of incarcerated women are a vulnerable group and their needs, vulnerabilities and rights should be appropriate considered by governments and government agencies. Every effort should be made to ensure that children are not made secondary victims of their mother's crime. This is not just for themselves but for society as a whole for how these children are treated will impact their future ability to be contributing members of society. I would like to thank the Committee for the opportunity to make a submission to the Inquiry. I am happy to answer any questions or to provide oral evidence.



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