

## Submission to the Inquiry into Children Affected by Parental Incarceration

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### 1. Introduction

As experienced researchers from across Australia with expertise in the outcomes of children affected by parental incarceration, we are pleased to provide this submission to the Legislative Council Legal and Social Issues Committee (the Committee) of the 59<sup>th</sup> Parliament of Victoria for the Inquiry into children affected by parental incarceration (the Inquiry). Our submission presents empirical evidence of the range of poor social, emotional, and health outcomes experienced by children affected by parental incarceration. Although our research has been primarily conducted in Western Australia (WA), where policies and services relating to these children differ from those in Victoria, the evidence we present highlights the disproportionate levels of disadvantage children of incarcerated parents experience. This context is important for informing decisions regarding the adequacy of policies and services to assist children affected by parental incarceration, regardless of place of residence.

We also note the existence in WA of the Boronia Pre-release facility, a rehabilitative ‘family-friendly’ women’s prison, designed, in part to assist mothers to enhance their relationship with their young children and create a more nurturing family environment for their children on leaving prison. Evidence of effectiveness of such settings is still being generated, but it is a model that, in theory, should make a positive difference to the lives of children of imprisoned parents.

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### 2. Key Issues

Children affected by parental incarceration are one of the most vulnerable yet invisible groups in society. Their lives are typically characterised by multiple layers of pre-existing disadvantage, further compounded by the challenges associated with parental incarceration. At present, no one government agency looks after the welfare of children of incarcerated parents, and evidence of their outcomes in the Australian context is limited<sup>1</sup>. There is also no comprehensive data system in place to monitor the risks and outcomes experienced by this vulnerable population, and therefore no comprehensive Australian data available for informing appropriate policies and services. Children affected by parental incarceration are thus prone to ‘fall through the cracks’ due to inadequate identification, lack of oversight and coordination regarding their service needs, and ad-hoc service provision.

The research findings presented in the following section demonstrate the need for evidence-based policies and practices to identify and support children affected by parental incarceration at

the earliest point possible. Practice and policy suggestions are made to support a more family-friendly prison system, especially for incarcerated mothers.

### 3. Evidence

In WA, linkage of high-quality de-identified statutory data collections permits the investigation of a broad range of outcomes for children affected by parental imprisonment. Data from the WA Department of Justice on remand and custodial terms for juvenile and adult prisoners can be merged with health and social sector outcome data for their children, sourced from Child Protective Services, the Department of Education, and physical and mental health records from ambulatory and hospital services. Using these data sources, we have conducted studies investigating the health, social, and emotional outcomes of children affected by parental incarceration. The findings we present in this submission are primarily drawn from research conducted with a large sample of children born in WA whose mothers were incarcerated during 1985-2015. We also draw on findings of a smaller study investigating the early childhood development outcomes of a sample of children born in WA in 2003/2004 whose mother or father had been imprisoned.

#### 3.1 Social impacts

The social impacts of parental incarceration are numerous and far-reaching. Children are most likely to first experience having a parent in prison during early childhood<sup>2</sup>, a period that coincides with developing vital skills and abilities that shape life pathways in areas such as educational achievement, wellbeing, and mental health<sup>3</sup>. During this critical life stage, experiencing significant adversity can have long-lasting negative impacts<sup>4,5</sup>.

Our research has identified that children whose mothers or fathers are incarcerated during the first five years of life have poorer social, physical, and cognitive development at school-entry than their peers<sup>6</sup>. Importantly, children whose parents had been incarcerated had poorer outcomes than children whose parents had been convicted but served community corrections orders only; this suggests that incarceration of a parent constitutes an independent risk factor, above criminal offending more generally, for children's development. These outcomes are likely to be the consequence of a number of direct and indirect effects, with incarceration of a parent one of many adverse experiences with which children are faced. Our findings highlight the importance of provision of support for children affected by parental incarceration at the earliest point possible. Vulnerabilities in development at the start of school predict later school outcomes including poor academic achievement and social difficulties, which in turn is associated with school disengagement and participation in delinquent activities<sup>7-11</sup>.

In addition, preliminary findings from our current research indicate ongoing difficulties as children progress through school. We have found that children with incarcerated mothers have a greater risk of below average numeracy and reading achievement in both primary and secondary school<sup>12</sup> compared with children not experiencing maternal incarceration. Poor school achievement can have life-long implications including underemployment, unemployment, poverty, criminal activity, chronic physical and mental illness, and early mortality<sup>13-17</sup>.

Our research has also demonstrated that children of incarcerated mothers have a greater risk of contact with the Child Protection System (CPS) from early in life and across childhood. In our research, 79% of Aboriginal children and 74% of non-Aboriginal children whose mothers were incarcerated during pregnancy and/or before the child's 2<sup>nd</sup> birthday had been in contact with CPS<sup>2</sup>. These children also disproportionately experienced removal into out-of-home care (OOHC). We found that 1 in 3 children whose mothers were imprisoned during pregnancy and/or before the

child's 2<sup>nd</sup> birthday had been placed in OOHC<sup>2</sup>. Up to age 17 years, the findings are replicated. Substantiated child maltreatment was 10-times more likely in children whose mothers were incarcerated relative to other children and children of incarcerated mothers were 16-times more likely to be placed in OOHC<sup>18</sup>. Removal and placement in OOHC did not appear to be primarily driven by the incarceration, based on very low co-occurrence of mothers entering prison and children entering OOHC at around the same time. Rather, serious child safety concerns likely reflect the multiple adversities experienced by incarcerated women and their families.

### 3.2 Emotional impacts

Separation from a parent due to incarceration can have a profound impact on the parent-child bond<sup>19</sup> which may lead to emotional and behavioural difficulties<sup>20</sup>. Our research found that children with incarcerated mothers and fathers have poorer emotional development in early childhood compared to children whose parents had not been incarcerated, including those parents who had served community-based orders only<sup>6</sup>. Without supportive interventions, it is likely that these developmental difficulties could compound as children age, particularly if they are exposed to a cycle of parental crime, arrest, incarceration, release, and recidivism<sup>21,22</sup>. Once a child has developed a significant developmental issue, the available interventions are often expensive, labour-intensive, and have modest effectiveness<sup>5</sup>. Services should instead be oriented towards a proactive approach to prevent developmental issues for children of incarcerated parents.

In our recent research we have investigated one of the most serious consequences of emotional dysfunction – self-harming behaviours. Preliminary results suggest that, during adolescence and early adulthood, individuals whose mothers have been incarcerated have double the risk of self-harm compared to other individuals whose mothers were not incarcerated<sup>23</sup>. Risk of self-harm was highest for children and young people whose mothers had been repeatedly incarcerated. This is a concerning finding, as self-harming behaviour can be a precursor to completion of suicide<sup>24</sup>. Given high rates of trauma and ill mental health for incarcerated women<sup>25-27</sup>, and the inter-generational transmission of the effects of these<sup>28</sup>, provision of high quality mental health services for incarcerated parents and their children is of utmost importance.

### 3.3 Health impacts

There is considerable debate about the practice of incarcerating pregnant women in Australia and internationally, due to the potential implications for both mother and baby. Between 2001 and 2011 in WA, 5.7% of Aboriginal and 4.0% of non-Aboriginal incarcerated women were pregnant<sup>2</sup>. Half of all pregnant mothers' prison stays were for periods less than three weeks duration, with the most common offences being non-violent offences<sup>2</sup>. Although sentences were, on average, brief, it is evident from our research that children whose mothers are incarcerated around pregnancy have significantly worse health outcomes than children born to non-incarcerated mothers. Two key adverse outcomes are low birthweight and infant mortality.

Specifically, our research found a doubling of the risk of infant mortality for babies of incarcerated compared to non-incarcerated mothers<sup>2</sup>. Aboriginal infants whose mothers were imprisoned during pregnancy had the highest rates of infant mortality, compared to Aboriginal infants whose mothers were imprisoned at other times, and compared to non-Aboriginal infants whose mothers were imprisoned at any time<sup>29</sup>. Alarming, maternal incarceration during pregnancy was the second highest risk factor (social or perinatal) for infant mortality, only exceeded by major placental disorders.

Another key finding was that of doubling of low birthweight risk in newborns if their mother was incarcerated before or during pregnancy compared to other periods<sup>30</sup>. Low birthweight is associated

with increased immediate and long-term health risks for the infant<sup>31</sup>. Although some international research has found a beneficial association between maternal imprisonment and heavier infant birthweight<sup>32,33</sup>, this has not been replicated in Australian studies<sup>30,34</sup>. This is potentially due to shorter median prison terms in Australia; individuals sentenced for periods shorter than six months may not be provided with access to essential treatment programs<sup>35</sup>. Provision of prenatal health services both within prison and post-release can lead to improved perinatal outcomes<sup>36</sup>.

Although we cannot conclude that the incarceration directly causes these poor health outcomes, our findings highlight the additional care needs of mothers incarcerated in the pre- and post-natal period to ensure optimum health outcomes for their babies. Criminal justice policies that address both the underlying vulnerabilities of women prisoners generally and the needs of pregnant prisoners specifically are required.

## 4. Recommendations

Based on the evidence generated by our research, and available in the existing peer-reviewed scientific literature, we recommend that the Committee implement the following:

1. The establishment of procedures for identifying offenders who are parents. This information should be made available to all personnel with whom the adult has contact with in the Justice system, to ensure that the needs of the child/ren are considered at every point. Where appropriate, referrals to other government and/or non-government agencies should be made.
2. Ensuring incarcerated parents and their child/ren have access to intensive inter-agency supports. Families with an incarcerated parent(s) often have a very high adversity load; the incarceration of a parent should be considered a warning sign of a child at risk.
3. The establishment of procedures to ensure timely and continued access to linked administrative justice, health, education, and social outcome data on incarcerated parents and their child/ren. There is a significant opportunity to dramatically shift the response to children affected by parental incarceration, with the potential to disrupt intergenerational cycles of crime, poor mental health, and social disadvantage. This shift requires a substantial evidence base documenting the long-term consequences of having a parent in prison.
4. The establishment of procedures to ensure access to service and outcome data on children affected by parental incarceration. These data should be used by relevant government departments to inform policies, practices, and services, and should also be made available (under appropriate privacy provisions) to the non-government sector to inform targeted community services.
5. Expansion and development of high-quality mental health and healing services within the prison and broader correctional system, especially for mothers, given evidence of very high rates of poorly managed mental illness and drug and alcohol addictions, in the context of deeply traumatic histories. Services should be sensitive to the particular needs of incarcerated parents.
6. Development of Justice system procedures that recognise the individual as a member of a family system and supports consideration, at an inter-agency level, of the needs of children upon sentencing of the parent.

7. Provision of ongoing funding for appropriate support services to assist formerly-incarcerated parents in the transition back into family, society, and community, including both practical support (housing, employment, etc) and parenting and mental health support.
8. Provision of ongoing funding for the maintenance and development of child-friendly prison facilities, including welcoming visitation areas and residential options for children to live with their mothers, where appropriate. Wherever possible, housing incarcerated parents in community-style child-friendly prisons with live-in arrangements, extended day stays and overnight visits for children of prisoners, and opportunity for community interaction. Boronia pre-release facility in WA provides a useful exemplar, where children can live in up to the age of 6 years and for weekends up to the age of 10, with a strong focus on a non-judging, non-shaming supportive environment with specific programs to enhance mother child relationship, offered in an attractive welcoming space. It is acknowledged that options likely vary by security risk assessment.
9. Ensuring various means are available (e.g., face-to-face, phone or video link) for incarcerated parents to maintain 'best connection' with their children. This should include opportunities for parents to communicate with school staff, foster carers, and other key adults in the child's life, where appropriate.
10. Investigation of more options to establish the best way of supporting pregnant women at sentencing, such as the expansion of mother-baby units and/or intensive diversionary programs.

## Summary

Children affected by parental incarceration are at risk of a broad range of poor social, emotional, and health outcomes. At present, however, it is only possible to retrospectively evaluate these outcomes, as there are no proactive approaches in place for identifying dependent children of prisoners and ascertaining their individual needs. There is a significant opportunity to improve the lives of children affected by parental incarceration through comprehensive data capture, timely interventions, inter-agency supports, policies to maintain and strengthen child-parent bonds, and family-oriented solutions in prisons and the community. Effective early responses to the conditions that put children's development at serious risk can avert or minimise negative outcomes associated with parental incarceration.

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