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## Parliament of Victoria Inquiry into Children affected by parental Incarceration

### Submission regarding children of prisoners in the care of relatives and friends

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[REDACTED]

#### My relevant experience

I am a psychologist with 30 years experience in child welfare prior to 15 years in research and consulting. <https://findanexpert.unimelb.edu.au/profile/169314-meredith-kiraly> I have specialised in the area of kinship care research, consulting and advocacy, and an extensive publication record in this area. I am currently engaged in an advocacy initiative regarding recognition and support for children in informal kinship care arrangements, a significant cohort of whom are the children of prisoners.

#### The circumstances of children of incarcerated parents

The circumstances of children of prisoners are covered in detail in many other submissions to this Inquiry. Poverty is a frequent concomitant of offending, which incarceration may exacerbate. Dynamics in prisoners' families are frequently disturbed, also often exacerbated by a parent's imprisonment. Many children feel the separation from their imprisoned parents keenly. Contact arrangements are limited, and frequently traumatic and frightening. Children experience stigma in their daily lives.

Parental imprisonment not uncommonly necessitates alternative care for children, usually in informal kinship care.

#### Kinship care and the incarceration of parents

Kinship care is defined as 'family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature' (United Nations, 2010, p.6). 'Formal kinship care' (sometimes called 'statutory kinship care') refers to care arrangements made by authorised child protection authorities and financially supported with a care allowance.

Numbers of children in formal kinship care in Australia continue to rise. At least four times as many children live in informal kinship care, currently estimated to be upwards of 100,000 children (Kiraly, 2018). Indigenous children are over-represented in formal kinship care (AIHW, 2021), and while no data exists about the prevalence of Indigenous children in informal kinship care, it is reasonable to assume similar over-representation. There is also no data regarding the number of children in informal kinship care who have a parent in prison, however such cases appear frequently in research cohorts and within family support services.

There is a widespread assumption that most kinship carers are grandparents. However, the limited published data about carer-child relationships in formal kinship care suggests that around 50% of children are with grandparents, and the rest with other relatives and family friends (AIHW, 2021; Kiraly, 2018). Kinship carers are in general older, poorer and more often single than foster carers, and have more health problems (Connolly, 2003; Cuddeback, 2004). They typically assume the care of more children than foster carers, not wishing to separate siblings. Their households are thus often crowded. Indigenous children in kinship care experience similar disadvantage, but in even more extreme ways due to yet lower household incomes, larger household sizes and poorer health of



caregivers. These conditions have obvious implications for children of prisoners in alternative family care.

Inequality generated by kinship care being adopted as a child protection alternative to foster care has long been observed to create two classes of children in the US, with children of colour being particularly disadvantaged (Geen, 2003; Hegar & Scannapieco, 1999). UK researchers have subsequently called for the right to support of children in kinship care to be recognised independently of their legal status (Hunt & Waterhouse, 2012, 2013; Selwyn, Farmer, Meakings, & Vaisey, 2013).

New Zealand has a history of providing financial support for children in informal kinship care via the NZ *Unsupported Child's Benefit*, however until 2009 such support was limited. Following research by the NZ Grandparents Raising Grandchildren Trust that showed children in informal kinship care to be in the same circumstances of disadvantage as children in formal kinship care, the Trust advocated for equity of support for all children in kinship care. In 2009 the NZ *Unsupported Child's Benefit* was raised to parity with the national foster care allowance.

<https://www.workandincome.govt.nz/products/a-z-benefits/unsupported-childs-benefit.html>

Children in informal kinship care in Australia are a hidden population. who attract little or no financial support. Caregiving families are frequently plunged into poverty, or into greater poverty, by assuming the care of additional children.

The unfortunately named Commonwealth *Double Orphan Pension* is available for children with one parent deceased and one parent in prison for at least 10 years. Many families caring for children of prisoners are therefore ineligible for even this modest payment.

### Advocacy re children in informal kinship care

In recent years, small groups of kinship carers (mostly grandparents) have formed in several Australian States to advocate for support for children in informal kinship care. Most of their work has been directed towards State child protection authorities, to date with little success. Child protection services are unlikely to extend support to these children, as measures to secure their safety have already taken place by virtue of the families' arrangements for alternative care.

The 2014 *Inquiry into Grandparent Care* and the 2015 *Senate Inquiry into Out of Home Care* each received submissions about the unmet needs of children in informal kinship care. Both Inquiries made formal Recommendations that addressed these, however they remain unimplemented.

### Language shapes thought

Terminology is a powerful tool for inclusion or exclusion, reflecting what can be seen, and what is hidden. Children in informal kinship care are not recognised as a visible cohort, and therefore not seen as a cohort in need. Their carers are not legally recognised as parents, adoptive parents or foster parents, and therefore not eligible for parental or adoption leave. Kinship carers are not recognised as 'carers' under Carer legislation (Commonwealth of Australia, 2010) and are therefore not eligible for services such as those of Carers Australia. While the Victorian *Carers Recognition Act* (State of Victoria, 2012) recognises formal kinship carers, informal kinship carers are not recognised in Victoria. Children in the care of aunts, uncles, other relatives and family friends are 'hidden behind' children in grandparent care. For children of prisoners in informal kinship care to be recognised and supported, terminology needs to change to render them visible.



## The push for Commonwealth support

An initiative led by PeakCare Queensland <https://peakcare.org.au> has been established to promote the recognition and support of children in informal kinship care by the Commonwealth. The initiative enjoins the relevant State and Territory Ministers to establish a collaborative Working Group to push for such recognition, as previously recommended by the 2014 and 2015 Senate Inquiries. Short-term aims of the PeakCare initiative include:

1. Amendment of the Commonwealth *Carer Recognition Act 2010* to include kinship carers in the definition of 'carer'.
2. Renaming of the *Foster Child Health Care Card* to the *Foster & Kinship Child Health Care Card*. This would promote the fact that this Health Care Card is actually available to children in kinship care at the present time, a little-known entitlement.
3. Renaming of the Australian *Double Orphan Pension* to the *Unsupported Child's Benefit*, and extension of eligibility to all children without parental support due to family breakdown and/or incarceration.
4. Creation of a Commonwealth *Statutory Declaration for Informal Kinship Carers* to be based upon the model of *Statutory Declaration for Informal Relative Carers* in Victoria <http://www.thecentre.vic.edu.au/wp-content/uploads/2014/12/ocsc-statdec-ftcarers.pdf> [www.education.vic.gov.au/Documents/school/principals/spag/safety/informalcarerstatdec.pdf](http://www.education.vic.gov.au/Documents/school/principals/spag/safety/informalcarerstatdec.pdf) This *Statutory Declaration* to be recognised as sufficient to allow for eligibility to parental leave for the carers of children of prisoners.
5. Renaming of the *Parliamentary Friends of Grandparent Carers* to the *Parliamentary Friends of Kinship Carers* with associated extension of its remit.
6. Renaming of the *Additional Child Care Subsidy – Grandparents* to the *Additional Child Care Subsidy – Kinship Carers* with associated extension of eligibility.
7. Consideration by the *Parliamentary Friends of Grandparent Carers* of the NZ *Unsupported Child's Benefit* for its relevance to the Australian context.

## Suggestions for Inquiry Recommendations

We suggest three Recommendations to improve the living circumstances of children of prisoners in informal kinship care. Wording might be along the following lines:

1. That the Victorian Government amend the Victorian *Carers Recognition Act* (State of Victoria, 2012) to recognise both informal and formal kinship carers.
2. That the Victorian Government participate in a cross-jurisdictional Ministerial Working Group for recognition of the right to Commonwealth support for children in informal kinship care, as previously recommended by Senate Inquiries in 2014 and 2015.
3. That the Australian Institute of Health & Welfare collect annual data regarding the number of children of prisoners and their caregiving arrangements.

## In conclusion

I am available to discuss these issues further, and can be contacted as below.

Meredith Kiraly, PhD

15 June, 2022

**Attachment:** Literature about children of prisoners and kinship care (**appears after the References**).



## References

- AIHW. (2021). *Child protection Australia 2019–20*. Canberra: Australian Institute of Health and Welfare.
- Carer Recognition Act: An Act to provide for the recognition of carers, and for related purposes, Commonwealth of Australia (2010).
- Connolly, M. (2003). *Kinship Care: A selected literature review*. New Zealand: submitted to the Department of Child, Youth and Family, May 2003.
- Cuddeback, G. S. (2004). Kinship Family Foster Care: A Methodological and Substantive Synthesis of Research. *Children and Youth Services Review*, 26, 623-639.
- Geen, R. (Ed.). (2003). *Kinship Care: Making the most of a valuable resource*. Washington: The Urban Institute Press.
- Hegar, R. L., & Scannapieco, M. (1999). *Kinship Foster Care: Policy, Practice and Research*. New York: Oxford University Press.
- Hunt, J., & Waterhouse, S. (2012). *Understanding family and friends care: the relationship between need, support and legal status. Carers' experiences*. London: Family Rights Group.
- Hunt, J., & Waterhouse, S. (2013). *It's Just Not Fair! Support, need and legal status in family and friends care*. London: Family Rights Group.
- Kiraly, M. (2018). Editorial: Australian Children in Kinship Care—Hidden in Plain Sight? *Developing Practice*, 51(Kinship Care Special Issue 1), 2-9.
- Selwyn, J., Farmer, E., Meakings, S., & Vaisey, P. (2013). *The Poor Relations? Children and Informal Kinship Carers Speak Out*. Bristol: University of Bristol.
- Carers Recognition Act, State of Victoria (2012).
- United Nations. (2010). *Guidelines for the Alternative Care of Children*. New York: United Nations General Assembly.



Attachment: Literature about children of prisoners and kinship care

I have not conducted a recent literature search about the children of incarcerated parents. However the items listed below that are in my collection may be of use in the Panel's considerations.

Denby, R. W. (2012). "Parental Incarceration and Kinship Care: Caregiver Experiences, Child Well-Being, and Permanency Intentions." Social Work in Public Health **27**: 104-128.

Enroos, R. (2011). "Mothers in prison: between the public institution and private family relations." Child and Family Social Work **16**: 12-21.

Hairston, C. F. (1991). "Mothers in Jail: Parent-Child Separation and Jail Visitation." Affilia **6**(2): 9-27.

Hairston, C. F. (1999). Kinship Care When Parents Are Incarcerated. Kinship Care: Improving Practice Through Research. J. P. Gleeson and C. F. Hairston. Washington DC, Child Welfare League of America: 189-211.

Hairston, C. F. (2009). Kinship Care When Parents Are Incarcerated: What We Know, What We Can Do. Baltimore, Annie E. Casey Foundation.

Sheehan, R. and G. Levine (2007). Parents as prisoners: maintaining the parent-child relationship. Melbourne, Criminology Research Council.

Smith, A., et al. (2004). "Breaking Through the Bars: Exploring the Experiences of Addicted Incarcerated Parents Whose Children Are Cared for by Relatives." Families in Society **85**: 187-195.

Spencer, M. (2010). Using Collaboration and Technology to Support the Children of Incarcerated Parents: A Case Study. ACWA Building a Child-Friendly Australia – Responding to Vulnerable Families Conference, Sydney, Association of Children's Welfare Agencies.