

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Children Affected by Parental Incarceration

Melbourne—Wednesday, 30 March 2022

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WITNESS (*via videoconference*)

Professor Thalia Anthony, Faculty of Law, University of Technology Sydney.

The CHAIR: Good morning, everyone, and welcome back. As I am sure you are aware, this is the public hearing for the inquiry into children of parents who have been incarcerated, and we are the Legal and Social Issues Committee. We are very pleased and privileged to be joined by Professor Thalia Anthony, a professor of law at the University of Technology in Sydney but also a board member of the organisation Deadly Connections. Welcome. Thank you so much for joining us today.

As I did while we were off screen, I might quickly do a run around of the committee members for you and for viewers at home. I am Fiona Patten, the Chair of the Legal and Social Issues Committee. I am joined by Deputy Chair Dr Tien Kieu, Ms Cathrine Burnett-Wake, Ms Tania Maxwell, Mr Lee Tarlamis and Mr Rod Barton.

Could I just let you know that all evidence taken today is protected by parliamentary privilege, and this is provided by our *Constitution Act* but also the Legislative Council's own standing orders. Therefore any information that you provide to us today is protected against any action and you are protected against any action for what you say here, but if you were to go elsewhere and repeat the same things, those comments may not be protected by privilege. Any deliberately false evidence or misleading of the committee could be considered a contempt of Parliament.

This session and this hearing are being recorded. We have Hansard and a team in the background listening to every word we say. They will produce a transcript, which will eventually become public via the committee's website. You will receive a copy of that in a few days, and I would just encourage you to have a good look at it and make sure that we have not misheard anything that you have said or misrepresented anything that you have said to us today.

Again we are very grateful for the time that you are giving us today. If you would like to make some opening remarks, I will then open it up to committee conversation and committee discussion. Thank you.

Prof. ANTHONY: Thanks, Fiona, and thank you to the committee for this invitation to give evidence. I want to acknowledge that I am on Gadigal land in Sydney; this always was and always will be Gadigal land. I want to also pay my respects not only to First Nations people watching today but also to Keenan Mundine, who was expected to give evidence today but cannot be with us, and I just want to acknowledge his leadership and work with children and parents who are affected by incarceration. And I will speak to a little bit of the contribution of his organisation and Carly Stanley's organisation, Deadly Connections, for which I am a board member.

My research is really on the impacts of imprisonment on Aboriginal communities, families and children. So what I will mainly speak to is that specific adverse impact, especially as it affects not only social, emotional and health wellbeing but also cultural wellbeing—which is I think quite a distinct impact for Aboriginal children—and the capacity of parents as knowledge holders and as cultural transmitters in the lives of Aboriginal children. Culture gives children a sense of belonging, identity, strength and wellbeing, and so when children are separated from parents it not only affects them; it affects the whole family and the capacity for the culture to be strengthened broadly.

A lot of my research has centred on Aboriginal women in prison, who are the fastest growing cohort in Victorian prisons as well, especially as a result of the harsh bail laws in Victoria over the last few years. In New South Wales in particular I have interviewed 160 Aboriginal women in prison, and I think it is important to understand that for many of these Aboriginal women they are not only biological parents—their parenting role can also include roles as aunts, as grandmothers, as older sisters. So it is a broader concept I think than the standard western notion of parenting and reflects the nature of Aboriginal families and the role of families in Aboriginal culture.

So what I have found from this research is that the impact on children is immediate and long term. After the parent is released the family relationships are fractured for a significant, if not permanent, period of time. Sometimes this is because the children are as a result of the imprisonment taken out of the care of the parent, so that results in a severing of the relationship for many years. Many of the women we spoke to who were mothers

had concerns about the whereabouts of their children when they were in prison, and a lot of the work we did as researchers was acting as intermediaries, trying to find out where children were so parents could contact them. Once we had initiated those lines of communication it was possible for them to make contact. But without us stepping in there was no other avenue for parents to reach out to their children and to know how to contact them, especially those who went into out-of-home care.

In terms of services and policies in relation to children of incarcerated parents, what we found in our research was that they are very ad hoc. The services are I think most deficient for parents who are on remand—and that is because services do not exist, but also planning is very difficult when you are uncertain about where you will be located and how long you will be in prison. And, as you know, COVID put additional strain on contact with children and on access to programs in prison, including parenting programs—but again, it is very rare for people on remand to have access to programs that do exist in prison.

In New South Wales there are some programs—like mums and bubs programs at Emu Plains in New South Wales—but the research indicates that these environments are not conducive to mothering due to high levels of surveillance and intervention. And one of the consistent findings is that there are few Aboriginal service providers in prison. Certainly Deadly Connections has sought to fill this gap but has faced many obstacles in getting access to prisons even before COVID but especially because of COVID.

Another feature of the strained relationship between parents in prison and children is that parents can be imprisoned hundreds of kilometres away from children, and there is obviously no control by the courts as to where the parent is located. So there need to be better systems to ensure that parents are in prisons proximate to their children.

There also need to be travel funds or services to transport children to parents where that is appropriate. Parents do not always want their children to come to prison. They are not generally culturally safe and accommodating places for children, and I think especially for Aboriginal mothers there is a lot of shame. So while we believe there should be better support for children to go to prisons, I think the underlying finding is that children need to be living with parents and there need to be services in the community, especially Aboriginal services for Aboriginal children, that support sentence options in community. With Deadly Connections in New South Wales and with the Victorian Aboriginal Legal Service I am doing two projects that are looking at introducing reports in sentencing—in Victoria they are known as Aboriginal Community Justice Reports (ACJR), in New South Wales, Bugmy Justice Reports—and these are mechanisms to explain family situations to courts so courts can better sentence with the Aboriginal children in mind.

But I think at the end of the day there needs to be more provision for capacity building of Aboriginal services and organisations to allow community-based options. At Deadly Connections we are developing a place called Girra-Girra Place for Aboriginal people, mainly Aboriginal parents, that enables them to spend more time with their children and also to engage in things like parenting programs to strengthen bonds that may have been fractured as a result of prison. But there are very few services in any place in Australia that allow children to stay with parents in rehabilitation, and I think this is something that is absolutely necessary, not only for the bond with the child but for the parent to recover. Strong parents often result in strong children's wellbeing.

Just to finish, our research really does point to the need for parents to be with children on their sentences. Prison does have a detrimental effect on the capacity for Aboriginal children to thrive. And if parents do go to prison, there needs to be stronger post-release supports, because otherwise that adverse impact of imprisonment is continued throughout the release and I think is especially hampered due to the constraints of probation and parole that make it quite restrictive as to how the parent can bond with the child. So I think there are a number of stages there, and I am happy to address any questions looking at each of those. Thank you.

The CHAIR: Thanks very much. We certainly will go back and have a look at a lot more of the research that you have done because that will really assist us, particularly those interviews you have done with so many people—the group of people that we are looking at for this inquiry. So we appreciate that. You mentioned Girra-Girra, and I am just wondering if you could expand on the plans for that program. Are we talking about fathers and mothers or is this just mothers to begin with?

Prof. ANTHONY: To begin, we have established two places. It has got limited capacity at the moment for Aboriginal men in one place and for Aboriginal women in the other one. It has two purposes in relation to

imprisonment. The first one is for it to be an alternative to imprisonment. Unlike other centres, there is an appreciation of the importance of fostering the relationship with the child, so the parent is given a lot of flexibility to have time with their children, although at the moment we do not have capacity for children to be at Girra-Girra full time. The other purpose is for the parents upon release to be at Girra-Girra to strengthen them to then go back into the community and be providers for the family, but also to be able to transition well into other aspects of community or employment and to strengthen their wellbeing. So it is both an alternative to prison and a post-release option.

The CHAIR: Fantastic. We heard that during COVID, because of the limits in prison visitations because of the pandemic, there were some quite positive pivots in communications, whether that was iPads or similar being used, and greater access basically to children at home by their parents. Have you seen the same? Would you have any recommendations to us about how we can use technology to maintain some of those bonds or continue those connections?

Prof. ANTHONY: Yes. I think this call for improved audiovisual technology has been longstanding, and so it has been very, I guess, fortuitous that COVID presented an opportunity for it to be rolled out. The parents that we spoke to in 2019 were very strongly emphasising the need to have this type of access, so I think it has been a positive outcome. But having said that, a lot of the people are still saying that their access is restricted. They are saying that if they do not know where their children are it does not matter the nature of the technology, they still are unable to contact their children.

The other thing is that notwithstanding the technology—and Deadly Connections did a survey of this in New South Wales—Aboriginal people in prison and their families based on this survey reported a worsening of their wellbeing under the COVID conditions. So technology cannot replace the face-to-face visits. It also cannot compensate for the deterioration of wellbeing as a result of being separated from children. So I think that while it has opened up some possibilities that have been needed for a long time, there are some systemic issues that it cannot provide a panacea for.

The CHAIR: It is a startling and frightening comment that you make that parents do not know where their children are. I can imagine that just must be so traumatic for a mother or a father. Is there something that we can do in the structure? And while I appreciate that actually not incarcerating a parent is probably the best outcome for children, when a person is incarcerated, when a person is first taken into custody, what measures should we be taking at that point to ensure ongoing connection, to ensure that parents are not wondering where their kids are?

Prof. ANTHONY: I am not sure exactly what could work from the position of corrections, for example. But how we approached it was to sit down with Aboriginal women in yarning circles and create a safe space where they felt they were not judged or there were not going to be any consequences for what they said and simply start a conversation about what was important to them. Universally, what was important to them was their children. We went into this project thinking, ‘We’re going to talk about prison or sentencing’—you know, the criminal justice system—and what we came out of it with was that the main thing they cared about was their kids and their wellbeing. And once we started that conversation in a culturally safe space—and there were other Aboriginal researchers there, and we had an Aboriginal support group called Sister to Sister who they could also call on, who were Aboriginal women in their community—it then emerged that they had not had contact with the kids. And we could then get in touch with either the child protection department or corrections, which are now together in New South Wales, and start those types of inquiries.

So I think based on that experience it is about having Aboriginal people from the community, whether that is elders or service providers, who can have these yarning circles to give women confidence that when they raise this issue it will not be used against them. Because there is a lot of fear in prison about what they say and how information will be used, including because it can mean that it changes their classification, it can change their entitlements. So there is a lot of distrust if this is being filtered through corrections, but if there is a safe Aboriginal intermediary, I think, that is the best way of kind of having a circuit breaker and finding out what the issues are and then how to facilitate the women—or the dads.

The CHAIR: And that sort of once they are in custody—yes.

Prof. ANTHONY: Yes, it is a good point because, like I mentioned with the Aboriginal community justice reports that the Victorian Aboriginal Legal Service are leading in Victoria, and I am part of the research on that, what we are hoping to do is to provide the information about family in order to inform better sentencing options. We are running the trial in the County Court but also the Koori Court division of the County Court. So once they are informed of the role of family in the person's life but also the person's contribution to family, it may allow for better options to assist kids but also to assist the person, whether that is recovery or staying on the right track, so on their own journey. What we were told in our research by judicial officers is that unless the defendant can prove exceptional hardship, which is a very high bar, they cannot rely on parenting and the impacts on children in sentencing. So I think if that remains an impediment, there needs to be legislative change to ensure that children can be accounted for when decisions relating to prison are made in sentencing—and, I would suggest, even in bail. So in Victoria you do have a provision—3A from recollection—in the *Bail Act* that allows Aboriginality, but that provision is interpreted in various ways. I think there needs to be more emphasis on culture and family being intrinsic and that being part of the remand or the bail decision-making.

The CHAIR: This is my last question, then I will open it up to the rest. What we are hearing is that very few questions are asked about parents—even 'Are you a parent?'—when someone is taken into custody or incarcerated. Is that your experience—that we are not asking those questions so we do not have the data so we cannot follow that person through and make sure that we can send out the squad to protect people, as it were?

Prof. ANTHONY: Yes. The research we have undertaken indicates that certainly for Aboriginal mothers they are barely asked anything about their circumstances by the criminal justice system. Certainly the lawyers get very little time with them. The judicial officers do not speak to the defendants. So at every single stage the women describe themselves as being kind of outsiders in this process. They are onlookers to what is happening to them, so in some cases women would start writing letters to the courts or things like that, because they felt like there was not a channel for their concerns to be amplified. I think it needs to happen from the outset and not just at the sentencing stage. I know in New South Wales legal aid is introducing a hub so not just Aboriginal mothers but all mothers can have supports from the beginning to ensure that they are able to maintain relationships with children. So I think that type of wraparound support, so they have not only their concerns communicated but they also have services to ensure that they are able to fulfil their role as parents, needs to happen very early on, and perhaps it is something that becomes triggered from, for instance, probation and parole or community corrections. Again, that system is not good at listening to the concerns of parents. That uses a very narrow risk tool to engage with Aboriginal parents, but if at that point there is some kind of referral or diversion, that might be the way in which these things can then be communicated progressively in I guess various phases in the criminal justice system or out of the criminal justice system.

The CHAIR: Thank you. That is great. Deputy Chair Tien Kieu.

Dr KIEU: Thank you, Chair. Thank you, Professor Anthony, for your contribution today and your ongoing work as a board member for Deadly Connections. You have identified in your very insightful research some of the issues for parents, particularly mothers, Aboriginal mothers, in incarceration, and the impact on the children could be social or cultural, very importantly, as well. Having identified those issues, could you tell us about some of the specific programs that Deadly Connections are doing in order to address those concerns and issues? And in particular, just before this session we heard from a witness from Kinship Carers Victoria. I know that is not statewide in New South Wales. But in that program the children who are impacted with their parents in custody are looked after by their kin, by extended families, and the statistics given were very, very successful. I am not quite sure whether you have heard of that or your opinion on that particular program. That helped somewhat the connection, the cultural connection, with their culture, particularly for Aboriginal people, because the loss of that would mean the loss of identity. It is not a replacement for parents or for mothers, but at least there is still someone around them. Thank you.

Prof. ANTHONY: Thanks for that. I do not know specifically about the Victorian program, but the experience in New South Wales still tends to violate the principles, the placement principles, where Aboriginal children should be placed with either family or kin or other Aboriginal carers. So those principles are not applied consistently. And when Aboriginal women told us that they did not know where they were, it was because the children were not being placed with family, so the family also did not know where the children were. Certainly if they had been placed with family it would have facilitated contact. I mean, I understand in certain circumstances there are divisions in family and it is not a guarantee, but generally the women felt that if the children were in family it would foster their ongoing relationship while they were in prison.

In terms of the work of Deadly Connections, it focuses on the one hand on the parents and strengthening them through programs—for example, men’s groups that focus on parenting—but it also focuses on the children. So there are separate programs that we run. They are for the Jargums, as they are called, the younger children, but also for the school-aged children. A lot of that is about having them meet up in groups to connect with their culture. They go on cultural camps. It is to ensure that even when their parents are in prison or when they are placed in out-of-home care, they maintain this identity. So when the parents are released it is much easier for the parents to continue with their cultural identity and with their cultural teachings and storytelling because there is some continuity that Deadly Connections has fostered with the children. So for Deadly Connections it is about focusing on certain times, I guess you could say, of crisis, but it is the continuity of care: understanding that even when the parents are returned there still needs to be this strengthening, because of what is lost from parents being away. I mean, I think many people would understand even a parent being away for a few nights or a few weeks can be very traumatising for a child, not to mention months or even years. So Deadly Connections appreciates that this is an ongoing endeavour to facilitate the cultural strength of children and families and they take a holistic approach. It is not just about ensuring that they engage at one stage, but that at every stage of their development they ensure this wraparound support and essentially make children feel they are connected to family, community and culture at every stage of their development.

Dr KIEU: Thank you.

The CHAIR: Thanks. We will go to Rod Barton, then Cathrine, then Lee.

Mr BARTON: Thank you, Chair. Thank you, Professor Anthony. A statement first: it is my view—it will not be the committee’s view—that we are putting too many people in jail for reasons which are not good enough, and we say that these kids are actually innocent victims of crime. We are not doing anybody any favours locking up mothers and fathers for minor offences. It is something I hope the Chair will help us delve into a little bit, because the consequences—we know the damage we are doing to these kids when we lock their parents up. That was one thing. You have answered a fair bit. Do you want to add to any of that?

Prof. ANTHONY: Yes. I mean, I think that point is spot on, because it is something that many Aboriginal mothers raised: that they are there for a short term for fairly minor matters and yet it has such a disruptive impact, whether that be directly on children or indirectly through losing homes, losing employment, even losing relationships with partners. So they would say that they feel that the punishment on their families is so disproportionate to what they have done. Yet women, Aboriginal women especially, but also Aboriginal men, cycle in and out of prisons on these short sentences continuously in a way that perpetuates it. So the more shorter sentences, the more you are then going to go in again. The women said to us they felt they did a lot of work towards their recovery and rehabilitation and yet the courts would always look at what happened five or 10 years ago. They felt that the only way for the court to understand their growth was for them to not always be returning to this criminal record from a long time ago, and there needs to be a line in the sand. As long as the courts keep doing that, they will forever be caught up in this system.

I think that the low-hanging fruit, the minor offences, is really what we need to look at. To what extent is that disrupting society or protecting society? And I think over decades of increasing imprisonment across the country, including in Victoria, the writing on the wall is that it has had no impact on reducing recidivism—quite the opposite—and it has had quite a substantial impact on children, especially Aboriginal children. There is growing evidence on how this has lifelong impacts on behaviour, wellbeing, education, employment, addiction et cetera.

Mr BARTON: Thank you, Professor. You touched on mums not knowing where their kids are. I want to know: how does that come about? Who is responsible there? We know if they go to the family, we can get the family thing. How does it go to a carer’s situation, or whatever the situation, and the mum? Who is responsible for keeping that connection with the mother?

Prof. ANTHONY: Who is responsible for breaking the connection?

Mr BARTON: That is the one.

Prof. ANTHONY: I feel that what happens is that imprisonment is identified by, in our case, in New South Wales, the Department of Communities and Justice, as a risk for child protection authorities. But despite it being part of the same justice department, there is no communication that is effected between child protection

and with the corrections. So they will go about removing the child, and what would ordinarily happen is that the parents are involved in case management and case planning. But because the parent is in prison, they are just taken out of the picture. There is no reason why a parent, even though they are in prison, cannot still be involved in conferencing, in family planning, in the same way they would in the community. In fact, I mean, my work and research often shows that parents are more accessible in prison—they are easier to organise meetings with. So why can't the same process of involving parents in the decision-making in relation to the children take place in prison as it does if the parent is in the community?

Mr BARTON: Exactly, yes. Chair, I have got one more. Can I go, or come back later?

The CHAIR: Let us come back later. Thank you, Rod. I will go to Cathrine and then to Tania.

Ms BURNETT-WAKE: Thank you, Chair. Hi, Professor Anthony. Wow, I have got a whole lot of notes scratched out on my writing pad. But I think one of the things that has really shocked us all has to be about the parents not knowing the whereabouts of their children. To me, I was completely unaware of this, and I find it really, really shocking. You mentioned that there are principles in place that children are meant to go to family members or kin but they are not applied consistently, so they do end up going into care of non-Aboriginal families. I have got three questions around that. I know Mr Barton started off asking you about your views on when the children do go into non-family care or non-kin care and who should be responsible for that, so I would just like to delve a little bit deeper. You kind of touched on it a bit, but it sounds like someone does need to take responsibility—if you feel comfortable commenting on what department you would think should just step up and take responsibility for that. The second component to my question is: if children are going into their family or kin care, what extra support do those families get or need and are they getting it when they have children of other family members who have gone into prison? If you could give us some more information about that. And finally, children who go into just mainstream care—you have given a lot of evidence about cultural wellbeing of these children and the importance of connection for identity and their overall long-term impacts. Is there something in place for those children in that kind of care or a program to ensure that their cultural connections are ongoing? I did not get that through the evidence. So that is kind of a bit multilayered.

Prof. ANTHONY: I think I might forget some of those questions—

Ms BURNETT-WAKE: That's okay.

Prof. ANTHONY: but in terms of the first one, who should be responsible, again my point of reference is largely New South Wales, and I am not entirely sure about the relationships with VACCA in Victoria. I have had a little bit to do with them because I am involved in the organisation Grandmothers Against Removals. So what we do is advocate for parents to keep families together, and I know even in Victoria there were issues about placement. When I was with Grandmothers Against Removals the structure that we recommended was called the guiding principles. Those were a set of principles about ensuring the family was kept together or that the placement principles were enforced. What that looks like is that each office for child protection would have an oversight body of local Aboriginal elders and family that would have some level of involvement in ensuring that families either stay together or that children stay with kin or with another Aboriginal family.

So it was really about the local officers at the department having that level of accountability, not so much the people but the protocols, and ensuring that caseworkers were not only making decisions with regard to their risk framework but with regard to histories of the stolen generation, with regard to the evidence of the long-term impacts of keeping children out of culture. So that was the framework which we were implementing in New South Wales, and that was effective in some offices but never really took off. I guess what I am suggesting is that whatever department it happens in, it is about having that layer of Aboriginal self-determination on the ground. That is in response to that question.

Was the next question in response to services?

Ms BURNETT-WAKE: Yes. So when children are being placed with family members, are the services adequate to support those family members who have taken their nieces or nephews or cousins into care?

Prof. ANTHONY: Yes. It is probably well known that most of the resources of the department go not towards keeping the family together but towards the carers. So carers get funding, they get priority with housing. So they get a lot of the resources, but whether those services are really there to facilitate the child's

connection to culture and their identity, I would say that that is not necessarily the priority. For example, foster parents or kinship carers get paid, as they should, but there is no guarantee how that funding is spent. A lot of the children in care can still be not having their needs met, not getting access to appropriate health care or disability services or cultural supports. I think that the responsibility really needs to be on the department to ensure that there is funding for organisations like Deadly Connections that can ensure that, no matter the capacity of the family, the child maintains some kind of continuity with wraparound supports, because as you would know a lot of the care arrangements are short term and a lot of Aboriginal kids move around carers. That is really common across the country, and if you have those organisations and those supports that can provide the continuity so each time the child goes into a new placement the carers are not having to identify the issues all over again, I think it would be a much better structure than just trying to put all the responsibility on the carers.

Ms BURNETT-WAKE: Thanks. That kind of ties into the third component I had anyway, so thank you very much, Professor Anthony.

The CHAIR: Thank you. Tania Maxwell.

Ms MAXWELL: Hello, Professor, and thank you so much for joining us today. You talked earlier about how parents' main concern was caring about their children and obviously knowing where their children are. If we continue to have people incarcerated who are parents, what is the alternative? What can you advise us to be an alternative to this?

Prof. ANTHONY: Tania, do you mean an alternative to incarceration or an alternative to the situation in prison.

Ms MAXWELL: Yes, sorry, I will clarify—to incarceration, because some of the conversation not only with you but with our previous witness from my perception was alluding to the fact that maybe incarceration should not be happening. So can you enlighten the committee on what your thoughts are based on the evidence that you have of alternative measures?

Prof. ANTHONY: Yes. I think the baseline is to ensure that parents and families are supported in the community—so even if, for instance, they are not in the ideal situation, whether that is accommodation or employment, to at least ensure that they are able to be in a safe place for them to practise their appropriate cultures and protocols, which is simply not possible in prison. So maybe what I am really saying is that what we need to be thinking about is not necessarily setting up the ideal environment but recognising that prison is harmful and that when we decarcerate, okay, we cannot expect to set up this ideal environment, but we can at least put in place supports, whether that is through organisations or these types of places like Girra-Girra that are available to families, and for sentencing courts to have these options, because while we try to incarcerate it almost accepts that it is a better option than the community, but as I mentioned before, none of the evidence suggests that prison works for parents or for children. So the first thing is: what do we offer to get them out? And then how do we build that? Because as long as we are putting people in prison it is actually worsening the capacity for parents rather than keeping them in community and then building that capacity.

Ms MAXWELL: Thanks, Professor. And just one last question, if I may. What consultation has been done with victims of crimes that has led to a parent as an offender being incarcerated? Because we cannot forget that often, particularly in very serious offending, not only does that impact on the children of that person, that parent incarcerated; this can have an enormous impact also on the victim. So I understand the complexities of balancing that, but community safety has to also be considered, so this can be a really difficult way in which this all has to be managed.

Prof. ANTHONY: I think, going back to what I was saying with the Aboriginal community justice reports, one of the aspects of this source of information is that it engages not just the perspective of the person but the perspective of the family, which may include victims and the community. So the idea of the report is to ensure that options are put that include that the person is going to be not a threat to any potential victims. So by bringing a community perspective it takes into account where an appropriate place for the person to live is so they will not further victimise.

The other thing I would say is that—and this perhaps gets back to an earlier issue—we need to remember that prison is very short term and that when people are released from prison it often enhances their capacity or

enhances their likelihood of reoffending. So the idea that prison is going to be a safe option I think is somewhat of a myth. We need to have better information about how we can put the person in a situation that is not going to threaten victims but is importantly going to change their behaviours or enhance their wellbeing so they do not continue on that path of being a perpetrator. I do not think that is working in prisons. I understand the needs of victims, but a bit like how the parents' views are not taken into account in sentencing, very rarely do victims get a say. Sure, there will be victims who are just about increasing imprisonment, but often it is much more complex, especially when the victims are in the same family. I think those types of voices need to be part of this discussion, because the interests of the child, as you suggest, may also be affected by the victim. I think these types of courts—especially the Koori Courts, where you have a holistic look at the needs of the person and the family—are able to have a more sensitive approach to these broader complexities.

Ms MAXWELL: Thank you.

The CHAIR: Thank you. I will go to Rod because I know he has a question. I have got one more. Do any other committee members have further questions for Thalia? Rod, you have got the floor.

Mr BARTON: I have got a text message; someone is watching:

How do we make sure that kids feel empowered to seek help or know they have somewhere to go? Kids are smart.

I guess we are talking about older kids—12-year-olds, teenagers and that kind of thing. What can we do there? How can we educate the kids?

Prof. ANTHONY: Rod, do you mean the circumstances of what their parents' situation is or what their own options are?

Mr BARTON: Well, I am reading what is coming through: 'How do we make the kids feel more empowered'—so they can ask for help, I think.

Prof. ANTHONY: I think the children in these situations need to have a voice in terms of what the arrangement is if their parents are incarcerated. I mean, in New South Wales, for example, after you are 13 you actually can apply to put in your preferences for where you want to live and who you want to live with. So there are these channels for children to have some control over their lives, but often children know those preferences before they are 13. Again, going back to, for example, case planning as to where children will live and who they will live with, children do not attend those meetings and they do not speak in court—they are represented by independent children's lawyers. So I think having the children present at their own planning and potentially giving them a voice in the court process are ways to recognise the rights of the child.

I think also what is really important is that children are able to speak collectively. What we see is siblings are too often split up as a result of out-of-home care placements, and I think that children's interests in staying together and the collective voices of siblings need to come through. Children see themselves as a family, including with their siblings, and their voices cannot be separated from the voices of their siblings, so I think—having them involved in those placement planning issues. I also think having them involved in—I know this sounds quite minor—the design or the location of the places where they can meet their parents in prison. We are always told how un-child friendly they are, yet when we talk to children about what their ideas as to what is needed might look like, whether that is a playground or the types of food they might get on the visits—things that matter to children—we have heard what they are, and yet the children are kind of just made to put up or feel privileged with the actual fact of contact rather than being able to determine the circumstances in which that contact takes place.

The CHAIR: Yes, I think that is an incredibly important matter. Thank you for raising it.

If there are no further questions, Professor, thank you very much for the time that you have spent here. An offline question we might follow up on is that we have heard that there are also some programs in New Zealand that are doing quite well in this, so we might follow up with you to see if you can make some recommendations to us about other examples. But all power to your arm and to Deadly Connections for the really groundbreaking work that you are doing.

Thank you for your time and insights today. I know I speak on behalf of the committee that we were all very engaged in what you had to say today. As I mentioned, you will receive a transcript of today. Please have a look at it and make any corrections that you need to. It will ultimately be made public.

The committee is now going to take a short break. We will return at 1 o'clock. Thank you to everyone, and thanks to everyone who is watching online.

Witness withdrew.