

# TRANSCRIPT

## LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

### **Inquiry into Children Affected by Parental Incarceration**

Melbourne—Thursday, 31 March 2022

#### **MEMBERS**

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**WITNESSES**

Ms Karen Fletcher, Executive Officer,

Ms Rachael Hambleton, Board Member,

Ms Kasey Elmore, Manager, Operations and Strategic Advocacy, and

Mx Rei Alphonso, Coordinator, Family Violence Justice Project (*via videoconference*), Flat Out Inc.

**The CHAIR:** Welcome back, everyone. Again, this is the Legal and Social Issues Committee's public hearing for our Inquiry into Children Affected by Parental Incarceration.

We are very pleased to be joined this afternoon by Flat Out Incorporated. With us today we have Rachael Hambleton, who is a board member at Flat Out; Karen Fletcher, who is the EO; Kasey Elmore, who is the Operations and Strategic Advocacy Manager there; and Rei Alphonso, who is the Family Violence Justice Project Coordinator, is joining us online. Thank you all for making the time to join us. Also I think on behalf of the committee I would like to thank you for all the work that you do for our community and for our society in general.

I just let you know that all evidence taken is protected by parliamentary privilege, and that is afforded to us via our *Constitution Act* but also the standing orders of the Legislative Council. This means that anything, any information, that you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing. However, if you were to repeat the same things outside this hearing, you may not have the same protection. Any deliberately false evidence or misleading of the committee could be seen as a contempt of Parliament.

As you can see, there are people around us who are recording and transcribing this hearing. You will receive a transcript of that, and I would encourage you just to have a quick read of it just to make sure we have not misheard you or misrepresented you. Our Hansard team is pretty extraordinary in not doing that, so you should be fine.

We would welcome some opening remarks from you, and then we will open it up to a committee discussion. Thanks.

**Ms FLETCHER:** Thank you, Fiona, and thank you to the committee for the opportunity to appear here today. We would like to acknowledge the traditional owners of the unceded lands of the Wurundjeri and Boon Wurrung peoples of the Kulin nation and pay our respects to elders past and present, and we want to acknowledge the ongoing and intergenerational struggles of First Nations people to survive dispossession and separation from family and community, including through the use of incarceration at mass rates in the First Nations communities, and we mourn those who have not survived.

We acknowledge our colleagues in Aboriginal community controlled organisations, some of whom have given evidence I believe before the committee already in these hearings, and the communities they serve as the true experts on the impacts of ongoing and intensifying incarceration on First Nations people. We particularly want to acknowledge the work of the people we work with and learn from at Elizabeth Morgan House Aboriginal Women's Service and the Victorian Aboriginal Legal Service, and Djirra, who we work with closely and we will be working with to provide the committee with information over the course of the inquiry.

We acknowledge the barriers to particularly First Nations people but to all people impacted by incarceration to talking about these things because of trauma, pressures of everyday life, the intense struggles to survive and heal, and the racism, stigma, discrimination and feelings of shame. So we urge the committee to take the necessary steps or to continue to take the necessary steps to seek out and hear the voices of these experts.

Most of us here today will be here as part of our paid jobs—with the exception, I should say, of Rachael from our board—but the real experts who have lived through incarceration of themselves or a family member, as Rachael has, or often both, should also be paid for their time and expertise and supported to survive the impacts of telling their stories and putting forward their solutions and sharing their ideas for what could be done better. Since being invited to participate in this inquiry, which we are very grateful for, we have been talking to our

colleagues at Elizabeth Morgan House Aboriginal Women's Services in particular to assist the committee, and we are very eager to get your thoughts on how to make this a safe, respectful and useful way that people can actually speak to the committee about their direct and personal experiences of being the children of people who have been incarcerated or having children while incarcerated. It is not an easy thing to do to provide that culturally safe space. Elizabeth Morgan House has a couple of older Aboriginal teenagers who are keen to talk to the committee and give evidence about their experiences, which provides an enormous opportunity but some challenges around cultural safety, around their age and their ability to give evidence in a safe way. So we would love to hear your thoughts and talk to the committee over the period about that. As well, there are a large number—perhaps more than 10—of Aboriginal women, mothers, who would like to talk about their experiences, so we are really keen to make that happen.

Flat Out is a support and advocacy service for criminalised women and trans and gender-diverse people and their children. So from our inception we have been about women and children, and in more recent years, we have formalised what has been the case, which is that we also assist transwomen, transmen and other gender-diverse people in the criminal legal system and in prisons.

There are four of us here today, as you can see, including Rachael Hambleton, from our voluntary board; family violence specialist Rei Alphonso; and our Manager of Operations and Strategic Advocacy, Kasey Elmore, who recently joined us and has long experience and expertise in alcohol and other drug harm reduction, including reduction of harm to children of people who use drugs and children who use drugs.

For over 30 years our outreach workers have been supporting people to get out and stay out of prison and build lives for themselves and for their kids in the community. Primarily and fundamentally this has meant securing safe and long-term housing as the basis for everything else—in terms of access to treatment for mental health and AOD issues, education, employment, reunification with their kids et cetera. But frankly this is getting harder and harder because of the current housing crisis and the large numbers of women that are being incarcerated, increasing every year. Getting housing is hard for anyone in poverty, but the added complications of a criminal record—I know I am not telling the committee anything new here; you have heard this evidence before—alcohol and other drug issues and mental ill health and experiences of family violence are making it nearly impossible in our experience for people to get secure and long-term housing, both to help them avoid imprisonment and to get out of prison and stay out of prison. This factor alone—housing and homelessness—is a massive barrier to family reunification after prison, and in itself it is a funnel back into youth detention and prison.

So with our small amount of core funding we have currently four outreach and support workers—about to be cut to two. We have lost commonwealth funding for AOD. We were listening in to some of the evidence this morning from Shine for Kids and cheering about the evidence of just the paltry amount of funding that there is for community organisations who are working in this sector. Like them, we will get philanthropic funding or we will get a pilot project. We recently had a very successful pilot project assisting women to get accommodation and support to help them stay out of remand and get bail. We had, I think it was, a 97 per cent success rate at getting people bail, and the pilot project was not refunded. And, as I said, we have lost the alcohol and other drug funding for our outreach program. So we are tiny, but we are fierce.

**Mr BARTON:** Good to hear.

**Ms FLETCHER:** We work at the intersection of the legal system, family violence, alcohol and other drugs, child protection, disability and mental health. So whilst we are a specialist homelessness service, when we work with criminalised people and people in prison we are jills-of-all-trades—jacks- and jills-of-all-trades.

So the chief concern of most of the women we work with, and the key part of the genesis of Flat Out in 1988—so what is that now? 34 years ago—is the issue of the welfare and wellbeing of children and their children and concerns about children. That is why Flat Out from the beginning has worked with women and children. One of the key things that kicked off Flat Out was the issue around the full-day Saturday visits program at Fairlea prison, which was greatly appreciated by kids and mothers and which the closure of Fairlea put an end to. We now have a situation at DPFC, which you heard some terrific evidence about earlier, where the visits facilities are so small that it is really very difficult for people to organise visits. The other barrier is that because most of the women who are mothers are primary carers for their children, their children are in out-of-home care and trying to get DFFH or others to bring kids in for visits is extremely difficult.

We have gone from a situation where there was less than 100 people at Fairlea and they had a Saturday visits day which was outdoors—there were football games and barbecues and all sorts of things—to the situation today with six visits rooms and it is extremely difficult for women to access them.

I did want to mention that it is not uncommon for women to be told they might get to see their kids on the day and for them to get dressed, do their make up, prepare for the visit, wait all day and then be told at the end of the day that DFFH did not turn up and there was not any way of contacting them and DFFH had not contacted the prison about why the children were not being brought. That pattern of lack of communication between the prison and DFFH child protection—I think you can see how it fits the pattern of everything else that the committee is hearing about the lack of coordination and communication between all the various agencies that touch on the lives of these mums and kids. That is just one small example.

As I said, when we started there were less than 100 women. In 2019 the numbers across the system at DPFC and Tarrengower went over 600 for the first time. Now they are down again to between 300–400 mark as a result of COVID—but, as you probably know, there are plans afoot to expand DPFC to over 700 capacity because of the steep increase in the number being in prison as a result of changes to the bail laws. We now have a situation where nearly 90 per cent of the women who are admitted to DPFC are on remand—refused bail and not sentenced—and on any one night around 60 per cent of the women there in February were there unsentenced. And those numbers are a real churn because it is people who are there for two weeks, four weeks, six weeks and then often, sadly, pleading guilty so as to be able to get back out to their kids, because if they elect to defend the charges—

**The CHAIR:** It is adjourned.

**Ms FLETCHER:** they wait for a year or two years for their trial to come up. That has blown out above a year to nearly two years during COVID because of the clogged court system, so the pressure to plead guilty just to be able to get back to the kids is intense, and we are seeing a lot of people getting criminal records. For example, a woman who gave evidence to the last inquiry of this committee into the criminal justice system described being a victim of a family violence incident and being misidentified as the perpetrator but not being able to present evidence of that self-defence in court because it would have taken probably two years for that trial to have happened and she needed to get back to her three kids, one of whom was a toddler with autism.

I think the main introductory thing that I wanted to say is that in 2006 Flat Out collaborated with VACRO, and I think you will also be hearing from them, on a document which we will provide to the committee—I am sorry that we have not yet—called *Children: Unintended Victims of Legal Process—A Review of the Policies and Legislation Affecting Children with Incarcerated Parents*.

You have heard evidence today. I was lucky enough to be able to listen into the evidence of Dr Flynn, who spoke just before us and who essentially went through exactly the same series of problems with the system and lack of join up with the system that that paper in 2006 went through. There is an enormous amount of evidence—Dr Flynn's, but there has also been a CRC grant. There have been studies into these problems in Australia and internationally ever since. It was 16 years ago that we published that paper, and reading it is really scary because the kinds of things that we were talking about—in terms of kids being left in cars because the police did not know they were there, police not having any responsibility for ensuring that there are some kind of arrangements made for the children, lack of any consideration for children in sentencing and lack of consideration of any kind of children in the bail and remand process—have not only not been addressed, they have got worse, particularly around bail, because there is this assumption that people will be imprisoned, that they must be imprisoned unless they can prove that they are not a risk to the community.

We are talking about, as I said, people who have got very little capacity to understand the technicalities of discharging the legal onus around proving that they are not a risk, with the result that people are just churning through the system, and particularly mothers are churning through the system, so increasing numbers of children are churning through the system. But we do not know how many, as you have also heard, and that is the other thing that our 2006 paper put right up-front, that these are invisible children—invisible to the system and invisible to the public—because the data is just not collected at the point where their mothers or other primary carers are imprisoned. DFFS—DFFH now, DHHS then—were not recording in their tick boxes that the reason for their being taken into out-of-home care was the incarceration of a primary carer, and they still are not. And why, after 16 years, after all of this research, after all of this evidence, is that still the case, that very

basic thing? And the very basic, you would think, simple thing of having some kind of obligation on the police to do a check and to get in contact with either the department or community services—Aboriginal community controlled organisations in the case of Aboriginal children—in policies and procedures: they have got a—

**The CHAIR:** Because there are commitments and other areas for them to do that, or requirements.

**Ms FLETCHER:** Yes. So we are asking—and we would love the committee to investigate this: why? When there is all this evidence, why is there this resistance? Why is there resistance to collecting the data, and why is there resistance to making the policies and procedures and joining the dots? That is our question.

**The CHAIR:** Sorry, we keep interrupting you.

**Ms FLETCHER:** No, that is okay. I am probably ranting on for too long. We are going to try and keep it to a minimum, but we are all advocates and we are all ranters, so we may take up a little bit of your time. But we are really keen to answer your questions too, so I will try to stop there. But essentially that is our question: why?

Our experience is that the fundamental driving force in the criminal legal system is the punishment of individual offenders. That is the *raison d'être* of the system, and that is the culture of the system, the policies of the system and the legal framework of the system. Trying to shoehorn into that the rights and welfare of another group of people, who are the children, is virtually impossible, and there is this resistance simply because of the structures and the systems. It is not just cultural, it is not just systems, but it is the whole historical precedent and culture of that and what people see as their jobs. Law enforcement is the job of police officers and security of the prison is the job of the prison officers, yet there is so much resistance to allowing, say, community organisations and mainstream organisations—even the department of education and the Department of Health, these sorts of mainstream organisations that could actually have a focus on child welfare and wellbeing—to have any intersections with that. So you have this focus on punishment, on security, as the primary issue within that system. Our argument and what we have observed is that that is a primary reason why this is not happening, even though there is evidence for it.

We would be urging the committee to have a look at some of the ways that we could bring other systems into this process so that we are talking about some of things—the wonderful things—that were talked about by Shine, like educating teachers about what happens with kids when they go for visits and try to get phone calls with parents and those sorts of things. If teachers knew the things that these kids were up against, if nurses knew, if kindergarten people knew, if the broader community knew—this needs to be made more visible.

**Mr BARTON:** It is a secret.

**Ms FLETCHER:** It is a secret, and I think that is part of what we are trying to advocate for—that it needs to be brought to the light. We have got a correctional health organisation delivering health services at DPFC, a private company—

**The CHAIR:** I know.

**Ms FLETCHER:** a fully owned subsidiary of an American correctional health facility. It should be the Department of Health, as they have shifted to in the UK, because we have got neonatal services that are so appalling we have had a baby die at DPFC, and that inquest will happen this year.

**The CHAIR:** This year, is it?

**Ms FLETCHER:** Yes. And the level of health care for pregnant women—reproductive health care in general, antenatal care, postnatal care, for the women who are in there, and it is not uncommon for pregnant women to be incarcerated—is just not at the standard that would be available in the community. Even though that is what the human rights standards say, it is not the case, and to get it there we need to have the same department delivering those health services in the prison as we have in the community, for the sake of the kids who live there and the women who live there and the babies who are born.

**The CHAIR:** We would love you to talk more about that in your submission.

**Ms BURNETT-WAKE:** Actually all my questions were answered.

**Ms FLETCHER:** In just wrapping up, what I wanted to say is, look, we would like to put forward that the systems of housing, homelessness and poverty relief; the systems of addressing trauma, mental health and alcohol and drug dependence; and the systems dealing with family violence that come out of all of those things need to be looked at—not just law enforcement and corrections—and brought to bear on this group of people and particularly this group of kids. And that is why we are here. We have got family violence expertise. We have got alcohol and other drug expertise. We are really committed to that intersection and trying to take this out of just the law enforcement and corrections sphere. We also have some immediate priorities that we think could be done very quickly through the use of technology in prisons to improve children's access. It has improved exponentially over COVID. There is only one further step to go, which is to just get it funded to the point where kids can send emails to their mums and dads and the mums and dads can send them back to them and there is, you know, videoconferencing that kids and parents can access easily. The technology is in the community; it should be in the prisons. Security will be cited as the reason why it cannot be, but there are technological ways around that in terms of closed systems. That is something that could be done very quickly.

Free phone calls—Rachael will talk more about that. It is an instant thing that you could do, free phone calls. At the moment they are \$1 a minute to mobile phones. And it is not to landlines, but who uses landlines anymore? So everybody is paying \$14 for a 14-minute phone call to a child. Yet Telstra has made phone calls free from public callboxes in the community, so why can't that be done in prisons for kids?

**Mr BARTON:** Sorry. It blows—

**The CHAIR:** I have been trying to get to the bottom of this.

**Mr BARTON:** So who is setting these prices?

**The CHAIR:** It is the private operator.

**Ms FLETCHER:** Well, we have been told it is commercial in confidence because it is a private operator.

**The CHAIR:** Yes. That is what I have been told. I have even asked questions on notice on this. It is commercial in confidence.

**Ms FLETCHER:** So that could be quick. Telstra can do it in phone boxes; they could do it in prisons. Why should there be private companies making a dollar a minute out of children and parents in prison?

**The CHAIR:** Exactly.

**Mr BARTON:** Not exactly the Park Hyatt.

**Ms FLETCHER:** And then the other thing that you have already had evidence on and we would like to wholeheartedly endorse is resources for community advocacy and particularly Aboriginal community controlled organisations, who have the solutions and the expertise in this. You have heard how tiny we all are. You have heard how under-resourced we all are. You have heard how we spend half of our time—I am doing this at the moment—writing long stories for philanthropic and other organisations about why we should get \$20 000 here or \$60 000 there, which last a year and then we have to do another one. These kinds of things will never be advanced unless those community advocacy avenues are strengthened so that the issues keep being raised, and properly raised, within all of these systems, not by these tiny little organisations like us, who are just swamped with casework and swamped with the women and children that we are working with and just not resourced to do the kind of advocacy that is needed to make these changes.

We have made a bunch of submissions to other inquiries conducted by this committee, and we will be referring to those. Look, in particular and in closing I would like to refer to the recommendations around the reverse onus in terms of the imprisonment of women and trans and gender-diverse people under the bail laws. It should not be assumed that people should be imprisoned unless they can prove otherwise. It should be assumed that they should not be imprisoned unless the police and the state can prove otherwise. The burden should be on the state, not on these families. That is what they are resourced for, and they are resourced at a much higher level than any of the agencies that look after kids. They have made mistakes when they have been assessing risk in some very high profile, very dangerous cases. But why should the women and children pay for those mistakes?

**The CHAIR:** Hear, hear! Thank you, Karen. Rachael, are you going to speak?

**Ms HAMBLETON:** Yes. I am also eyeing off that water bottle right there, the spare one. I am just smashing through the water. I have already got one that I have almost finished. I thought I would just line this one up.

**The CHAIR:** Well done, you. I am feeling shamed. I am going to drink some water.

**Ms HAMBLETON:** Stay hydrated. I would like to start by reiterating Karen's acknowledgement that we are on unceded land and that this is an issue that obviously disproportionately affects our First Nations people. I think it would be really remiss of us not to always keep that at the front of our minds.

I came to be on the Flat Out board after more than a decade working in various roles across the legal sector. I have worked mainly in fundraising and communications roles at a variety of specialist and generalist community legal centres, and I have also held advocacy and board-level positions in the criminal justice space.

While I may have had a decade of professional experience in that space, I have also had more than three decades of personal experience navigating systems and services and just the world as a person affected by parental incarceration. It took me some time to open up about my own personal experiences in these spaces. Both of my parents have a conviction history. My dad spent much of his own childhood as a ward of the state in Turana, which I am sure you are familiar with, a juvenile detention facility that at that time doubled as a child welfare institution. That was a pipeline for him into imprisonment as an adult. He was in prison when I was born and in and out of prison throughout the entirety of my upbringing. In 2017 he was released for a two-year period. He was six months off parole when he died after a police-initiated contact, which is still the subject of a coronial investigation that, in my view, is likely to become a death-in-custody inquest. So I am almost three years on from his death, without any answers, and I think in my experience the justice system works at its slowest when holding itself to account. I think that is a really important point to make.

Now, the topic of parental incarceration was also more difficult to discuss when my dad was alive—I think that is also something that is important for me to say—as it felt like, firstly, his experience to tell. I did not want to publicly humiliate him in any way, and I was never sure if he might have found himself incarcerated again. It becomes a really touchy area to have to talk about publicly or even personally sometimes, when it is a very real continued lived experience. Happening upon kind and attentive adults going above and beyond in their roles—from my high school chaplain to the recruitment agent who supported me to get my first legal secretary job—is, for the most part, I feel, the reason that I have the privilege to speak with you today, though I cannot overstate how much luck and being white has had a hand in this. Alarming figures continue to paint a grim picture of our First Nations people being incarcerated at disproportionate rates, to say the least.

If I had to describe my own experience of parental incarceration in one word, it would be 'isolating'. In so many ways that is what the carceral system is designed to do—isolate. There are many barriers to maintaining relationships from prison, including where the prison is located in reference to where you might be living, if its visiting hours are outside of school or work hours, how much—or should I say how little—they pay prisoners for their labour and how much they are then charged to make phone calls. Beyond these barriers to connection, I, like many children with criminalised parents, struggled with navigating informal out-of-home care arrangements; feeling ostracised and alienated by other children and their parents throughout my childhood; having well-meaning school programs fumble over things like Father's Day activities that would forget to factor in children separated from their parents; trying to shield my parents from the shame associated with their convictions and their absence; watching my parents struggle to find employment with their conviction histories and the flow-on impact that this then had on my own housing and access to things like food, dental care, clothing and education; not being able to contact a parent in my own time when I might have needed or wanted their support; and needing to be routinely available at a time we agreed prior to talk in short intervals of up to 12 minutes. I also want to make the point that in my teenage years this meant calling a landline, as at that time prisoners were not permitted to call mobile phones. My mum could only afford to have a mobile phone connected, so my dad would need to call a nearby neighbour at a time that they were available to have me over. I understand this is not so much of an issue anymore as mobile phones can be called, usually at a larger expense than a landline, but prisons—and I have visited many prisons in a professional capacity now—are often far behind the rest of society technologically.

Prisoners are known to work 60-hour weeks, earning a few dollars per workday, while the surplus value of their labour goes on to line the pockets of private corporation bosses. This means that incarcerated people are

generally unable to provide monetary child support. When I met with women incarcerated at Tarrenghower Prison last year in an advocacy role that I do with the Justice Map, they talked about purchasing ice cream or a milkshake from the prison canteen for their child at the cost of more than a day's worth of work. They also talked about how their children's visiting rights got treated as a privilege and were often removed at the drop of a hat over trivial things and other things like being unable to have their children with them at the prison for overnight stays, even though this is a program that the prison offers, as their children may have been formally in the custody of another family member.

Into my adulthood some of the community services available to me as a child bottomed out. Beyond the practical implications there are emotional ones. To this day one of the largest portions of my wage is spent on therapy each year. I have struggled to find trauma-informed practitioners that are equipped to support the complex trauma that I have been left with. My parents were not able to provide a framework for further education or financial stability, and I will not benefit from intergenerational wealth. Crime is often seen as statistically hereditary. For much of my life it has felt like a contagion that I might not outrun. It is hard to fathom for me that I have not yet been in the back of one of those divvy vans that circled my teenage home. The force of the state is palpably more present in the lives of some, particularly our First Nations people. It is clear to me that the justice system is increasingly being used as a response to social and economic disadvantage.

I will conclude with some initial recommendations—of course we will follow up with a submission. First and foremost is prioritising lived experience expertise. In all my work across the legal space I have knowingly come across three others who have experienced parental incarceration in their childhood. To be someone with lived experience working in a space relevant to your experience often means watching your very personal experiences being studied, intellectualised and academicised; constantly hearing the odds and statistics that are stacked up against you; watching colleagues without lived experience discover with horror countless issues with systems and practices of policing and incarceration, issues that are known to me as common sense—it is ever apparent to me that I cannot relate to the upbringings of most people in my professional life; we have very different ideas of what is a universal experience—and watching in despair as future generations continue to be impacted in exactly the same ways while recommendations from countless inquiries and commissions remain unimplemented.

Being affected by parental incarceration will differ for everybody depending on whether or not it was one or both of their parents, if they were your primary caregiver, the length of their sentence, the nature of their sentence and the publicity that might have surrounded that sentence.

There are other recommendations that I will preface with the fact that while some reforms can make connection more comfortable, it does not address the underlying cause of incarceration. Some of these other recommendations include ensuring prison visiting hours are outside of school hours and that there is free access to phone calls for all prisoners to maintain meaningful connections outside of prison. I want to also make the point that international and local experts, such as the Victorian Sentencing Advisory Council, have found that imprisonment has no effect on the rate of reoffending and in fact increases the likelihood of recidivism, because it places people in a learning environment for crime, reinforces criminal identity and most importantly fails to address many of the underlying causes of crime itself.

There is the issue of course that I know many people have raised of capturing data. While the ABS regularly captures data on adults and children who are in prison or who have had proceedings brought against them, this data does not track incarcerated adults who are parents or whether the children in out-of-home care or juvenile detention facilities have experienced parental incarceration.

My last point that I will make is around funding. Most of my professional work at the moment is within the philanthropic space. I currently manage the Victorian Women's Benevolent Trust, which is the philanthropic arm of the wonderful Victorian Women's Trust, but I will be actually leaving that role in two weeks to join the Paul Ramsay Foundation to work on their criminal justice funding. What I have learned in my time in philanthropy and what is reiterated by a lot of data from, for instance, Philanthropy Australia's foundation maps to ACNC data is that the least common beneficiaries of all groups time and time again, in the words of the ACNC, are pre and post offenders and their families. The second least people to receive funding are LGBTI people, so God forbid you are an LGBTI person that is experiencing incarceration. As Karen mentioned, they have housed a program called Beyond Bricks & Bars for the last couple of years, which I believe is funded entirely by community donations at this point.

**Ms FLETCHER:** Completely crowdfunded, yes.

**Ms HAMBLETON:** Completely crowdfunded. That works to support trans and gender-diverse people who are incarcerated or at risk of incarceration. I think that is sort of all I have for you.

**The CHAIR:** Rachael, thank you so much for sharing that. It is so powerful. He is crying.

**Mr BARTON:** I cry all the time.

**Ms HAMBLETON:** Sorry to make you cry.

**The CHAIR:** I am crying.

**Mr BARTON:** It is a thing.

**The CHAIR:** We are so lucky to have you here. Flat Out is so lucky to have you as a board member. We are all still passionate about this, but I think you have just escalated the passion and the urgency for us to do something, so thank you so much. Kasey and Rei, I am just conscious—

**Ms FLETCHER:** We are going to run out of time, sorry.

**The CHAIR:** It is 11.35.

**Ms FLETCHER:** Perhaps we just give a couple of pointers, Rei and Kasey. I am sorry. I know everybody has done a lot of preparation.

**The CHAIR:** Which we so appreciate.

**Ms FLETCHER:** Which we will put into our other submission.

**The CHAIR:** Yes.

**Mx ALPHONSO:** So how much time do we have left? Should I just aim for 5 minutes or have I got less?

**The CHAIR:** If you could do 3 to 5, that would be super. That gives Kasey 3. Take a deep breath and—

**Mr BARTON:** Go!

**Mx ALPHONSO:** Let us see how fast I can talk—pretty fast. So my work is the family violence justice project, which looks explicitly at the intersection between criminalisation and family violence. If there is one thing that I would like to communicate to the committee it is that the existing frameworks around power and control that exist in the family violence sector need to be expanded and really incorporated into a more structural understanding when it comes to criminalised women and family violence.

The model that I use in the project is systemic harm, systemic abuse and systemic collusion. So systemic harm is obviously the structural forces that shape someone's experiences of things like laws and regulations, such as racism, classism and sexism. Then systemic abuse is when a person who intends to use harm against an individual exploits those systemic forces in order to cause them harm. So, you know, that could be—we hear all the time about perpetrators threatening to call the police on a woman, dragging her through court with pages of vexatious litigation, threatening to involve child protection, threatening to disclose her substance use, actively embroiling her in criminalised activity in order to leverage more control over her, and so on and so on. And then systemic collusion is when services and structures consciously or unconsciously collude in the perpetration of that harm. That can look like anything from family violence services requiring an intervention order in order to provide a support service. So obviously a woman who has a history with the police or has been criminalised is not going to feel safe with police as first responders, is not going to feel able to get an intervention order, and is probably going to be put more at risk from the involvement of police and so not then able to access a family violence service. It can look like things from—you know, there is no bridge from prison into a family violence refuge. It can look like mandatory reporting. It can look like the rollout of the information-sharing scheme. This all creates a perfect storm of vulnerability to harm and has many outcomes, one of which is the obscene rates of child protection intervention and removal, especially for poor and black families. The systems that surround criminalised women and their children rely on state-mandated power and control for their functioning, and that

makes these families not only extremely vulnerable to abuse but it compounds the impact of that abuse when it occurs.

One of the things that I wanted to do was to centre the words of the women that we support. Unfortunately we do not have time to do that. I would ask the committee to reflect on the fact that that is really unacceptable and going forward to ensure that lived expertise is not only adequately centred in this inquiry but is dignified and elevated and treated as expertise. Too often I feel unfortunately in these processes people's pain and their wisdom and their stories are treated as window-dressing: you know, they are quoted extensively, their headings are pulled out from reports, and essentially do not result in any of the real structural reforms that these people are crying out for and that their wisdom demands be enacted if there is going to be any real change. We will put it all into our submission going forward. But there many words I am biting back that I wish I did not have to from the women that I have worked with and the wisdom that I have been able to draw on in doing the training and capacity building that is really core to my role.

I will just quickly nip through some of my key project findings on relevant issues. So obviously misidentification as a primary aggressor is a key impact in the criminalisation of women experiencing family violence—and the removal of the children. Perpetrators using systems is a highly effective form of power and control. The impact of criminalisation on a woman's ability to seek support from family violence services, the impact of family violence on criminalisation and conversely criminalisation on family violence—so it becomes a very sticky web that a woman can easily become embroiled in.

Vulnerability to systemic harms, economic insecurity, housing insecurity, very poor literacy between the service system and the criminal legal system—you know, we should not have women who are not being bailed back into the community with their families, where they belong, because they do not have access to housing through no fault of their own. That should be a right, not privilege or a commodity.

The gaslighting by the system—so, you know, Karen spoke earlier of women who are told to get ready, who are prepared to see their children. The children never come. And then if the women have a reaction to that, that results in further punitive measures against them rather than the burden of that responsibility being on the system.

Similar in discrimination—and how heavily that falls on criminalised women, how deeply they are seen to have transgressed these bounds of what is considered to be an ideal victim or an ideal mother and how that dovetails with historical and cultural trauma, particularly for Aboriginal communities that have, you know, understandably, so much traumatised fear response to the police and to child protection and other systems like them.

Is that my 3 minutes, or have I got 1 more minute?

**The CHAIR:** Yes.

**Mx ALPHONSO:** That is my 3 minutes. All right. Anyway, there is so much more I could say but I will pass it over to Kasey.

**The CHAIR:** Yes. Thank you, Rei. And I can assure you that we are seeking out the voices of lived experience. I think if there is one committee that has prioritised those voices, it actually is this committee, this term.

**Mx ALPHONSO:** Yes, great.

**The CHAIR:** So thank you, and I take all your points. Kasey.

**Ms ELMORE:** I am going to try and do absolute justice to this in as quick a time as I can. I am really sorry about—

**The CHAIR:** No, do not be.

**Ms ELMORE:** We are just very passionate. You cannot talk about children of imprisoned parents without looking at all the reasons why people are imprisoned in the first place, and such a strong correlation exists

between substance use and imprisonment. And I know most of us around the table are pretty much aware of that, but I feel like it is important to have this discussion ongoing.

The World Health Organization has ranked illegal drug dependence as the most stigmatised health condition globally. From that, that stigma makes it almost impossible to have any kind of rational conversation with anybody, moving forward. It is far reaching, that stigmatisation, so it informs our drug policies and laws. It is well within community—media, and the damage that media can do to individuals—and obviously the criminalisation that results in the imprisonment. So stigmatisation equals harm. These harms often result in death—hundreds of deaths each year—or lifelong trauma which it is impossible to recover from.

Why are we failing? Lots of reasons. I do not have time to go into them all now, but basically our public health policies relating to drug use are not guided by best practice, nor are they evidence based. It angers me, some of the some of the reasons and why we have the policies we do. But we find the need as a community and a society to punish people who take drugs—and that can be from accessing pharmacotherapy, and quickly having that removed because that is a privilege in that community. We punish people by imprisoning people. We punish people by removing their children out of their care, let alone just in general how we treat people when they want to access a service for any kind of support. Prisons are not an environment where people can get support for any kind of substance use or any other health issue that they might be managing. They are just punishing, and they are resulting in more harm. I am going to skip through a lot of the other stuff because of allowing time for questions—

**The CHAIR:** We promise we will read it.

**Ms ELMORE:** but I think what I really want to talk about too is, as a clinician, you have got protective factors that you work with. As soon as somebody has substance use and a history of imprisonment, I do not have a lot of protective factors to work with somebody on. They have got criminal records. Trying to get them employed, trying to get them into study—no children, out of their care and unlikely to ever be back into their care—makes it really difficult to work with people. So my hope, coming out of this inquiry, is that, and I know we have had discussions around decriminalisation, that could also include looking at legalisation at some point in time—I feel very strongly about that; that drug policy and laws should be informed by a health response and best practice and be evidence based; that we need to look at new models, trials and pilots that could be explored and evaluated; that we urgently review the harms of imprisonment and seek alternatives; that the government stops investing in responses and approaches that create and exacerbate harms, often resulting in the death of members of our community and people we love; and of course that people who have lived or living experience be very much part of our response.

**Ms BURNETT-WAKE:** Thank you.

**Mr BARTON:** Good job.

**The CHAIR:** Yes. Thank you, all. I notice—and the secretariat pulled it out for us—that you in your submission to homelessness said:

... the upwardly spiralling numbers of children becoming homeless and going into out of home care—  
due to the link with criminalisation—

is worthy of its own Parliamentary Inquiry.

So well done—here we are.

**Ms FLETCHER:** It is hard to squeeze everything we have to say into the time available, especially when what we are saying essentially is that this system within these boundaries is not going to be fixed. We have to look much more broadly. We have to look at family violence, we have to look at alcohol and other drug issues, because law enforcement and corrections are not going to be the answer.

**Ms BURNETT-WAKE:** Something that you touched on, Karen, and something that I really want to know about more is women who enter prison pregnant and their experiences so in your written submission if you could please expand upon that—all of the issues, what needs to be done, what is working, what is not. I was shocked to hear that it was delivered in Victoria by a private provider. I did not know that.

**Ms FLETCHER:** It would also probably be worth talking to the unit at the Royal Women's Hospital—

**Ms ELMORE:** WADS.

**Ms FLETCHER:** WADS. What does WADS stand for?

**Ms ELMORE:** Women's Alcohol and Drug Service.

**Ms FLETCHER:** The Women's Alcohol and Drug Service have a lot to do—not as much as we would like but something to do—with women at DPFC and also the Sunshine Hospital. But yes, there are serious concerns which we will, through our network or ourselves, provide further evidence on or point other people in your direction.

**Ms BURNETT-WAKE:** Thank you.

**The CHAIR:** Kasey, are you aware of any alcohol and other drug services being made available to women on remand?

**Ms ELMORE:** No, I am not.

**Ms FLETCHER:** The answer that we usually get to that is that they are not in long enough. Even for things like access to the methadone program you have to be in there for a certain period of time, and if you are not, then you cannot. We have had a death—at least one death—as a result of not being able to access ORT on remand. When 88 per cent of women coming into DPFC are coming in on remand it is a huge issue.

**The CHAIR:** And that is a prescription medication which they have a prescription for, very possibly—and if they do not, they will need one probably if they are going in.

**Ms FLETCHER:** Yes. And the point of Kasey's evidence is to say that a lot of people are coming in because they do not have access to those things in the community and because of all of those issues that have come up in other inquiries about access to treatment, especially access to treatment for people with kids, because of the fear that if they do access treatment the kids will be taken away from them. It forces people underground, away from treatment, into homelessness—all of those systems—because of the punitive approach. It is harming children because people just cannot access the help that is needed to actually stabilise and parent.

**Ms ELMORE:** And when there have been attempts from a legal perspective to intervene, often a treatment plan is developed that does not involve the person requiring that support. So there are hurdles to jump through, and it is: 'You will start this pharmacotherapy program. You need to attend this appointment and this appointment and do this and these counselling sessions, and this is what this is going to look like'. So the ownership of one's health does not exist.

**The CHAIR:** Rachael, can I just ask you: in maintaining a relationship with your father throughout your life, are there any pearls of wisdom for how you managed that or how he managed that with you?

**Ms HAMBLETON:** It changed depending on the prison he was in or my age. My mum and dad broke up when I was four or five, so it sort of became less of an incentive maybe for her to facilitate contact, which I think was completely fair given his history. And I think he went through periods in maximum security at Barwon and Port Phillip, which are really unpleasant environments, and he really felt that he did not want his children to be physically visiting him in those spaces. As I mentioned, yes, it can be very money dependent—how much you are earning in any given prison, how much they are charging you for phone calls, which is absolutely for profit. It is so opaque, the ways in which people are profiting and how they are profiting. It is so hard, as I am sure you have found, to kind of get access to that information.

**The CHAIR:** I know, yes. Certainly the Justice Map has been working on this as well and trying to follow the dollar.

**Ms HAMBLETON:** Yes, and I think for a lot of parents there is that feeling of like, 'I don't want my children to see me in a bad light; I feel shame; I don't want them to follow in my footsteps'. There are all sorts of complicated feelings that might make your parents feel that it might be in your best interests to distance

themselves, and I think that if prison services systems looked different that might not be so much the case. I think it is also really awful, because I think it has been proven endlessly that if people are able to have meaningful contact with people out in the community that really does reduce the recidivism.

**The CHAIR:** There is a real protective factor. And just finally, when your father was released, the times that he was released, were there any support services for him or for you in a kind of reunification or reintroduction?

**Ms HAMBLETON:** Absolutely not. But what is interesting is parole. As you know, the parole laws in Victoria are quite difficult. He was lucky in some ways, which should not be the case.

**The CHAIR:** That he was paroled?

**Ms HAMBLETON:** Yes, that is the thing. So you become eligible for parole, you apply and you might not necessarily be granted it, depending on the length. He was eligible for parole, I think, for a number of years even before he was granted it. He was on parole for a year and a half, and there are various things you need. You know, you have got ankle bracelets and you are only allowed in certain areas and out at certain times of day, which really makes remaining employed and housing and that sort of thing really difficult. You actually need to show that you have somewhere to go and live to be paroled. There are so many different problems with that, but there were parts of that service, like having a parole officer, having therapy paid for for him that he really needed at that time. But then as soon as parole finishes, those things are no longer available to you anymore, which is why I think it is important for people to have that period to be reintroduced into society with some supports. Parole really is the only avenue for that. Once that finishes, unless there are little community services that have got bits of funding to do programs for short periods of time and you are able to find where there are, there is not really anything consistently available. And funding is so precarious for community organisations. It is often one to three years of funding for something—and people always want to fund new, shiny things, so often really good programs are piloted and then cannot get the funding to be continued.

**The CHAIR:** We have negotiated a few extra minutes with you. VACRO has been very generous to allow us to continue this conversation, so if I have got time, Rei, I have got some questions for you, but I will go to Cathrine first.

**Ms BURNETT-WAKE:** I am just really focused on women entering prison who are pregnant, so I am happy to wait for your submission in that regard.

**The CHAIR:** Mr Barton.

**Mr BARTON:** Kasey, I would like to ask you a question a bit more on something I feel strongly about: parents being put into custody and not taking into account the children. We are certainly seeing with the Indigenous community that they are being incarcerated at a rate which is unacceptable, I think. Could you tell us a little bit more?

**Ms ELMORE:** One of the stories that I wanted to share with you—and I think that there are certainly Aboriginal controlled organisations who are going speak to this more broadly, and I would feel much more comfortable for them to do so on behalf of other Aboriginal people—was actually about an Aboriginal person I was supporting. I have been very privileged to work with that community. It is a very brief one, but I think it highlights what I probably did not get to come across quite clearly—that is, the fact that children become adults, adults have children, and this is the generational aspect of the interaction with substance use. I received some news one day that somebody that I was supporting needed to see me urgently. The person was homeless, but I knew where to find them. I arrived to see someone physically and mentally broken—I have never seen somebody this broken before. They had received news that within the space of three days—none of their children were in their care and had not been for a very long time because of their own substance use and imprisonment—their 16-year-old son had died as a result of a fatal car accident where they had been travelling in a stolen vehicle at the time, and their 19-year-old daughter had died from an overdose two days after that. So within a three-day period they had lost two of their children. The person I was supporting had experienced long periods of incarceration, and their children were becoming very well known to the legal system. This inquiry would have been an incredible opportunity for the person that I was supporting to share their experience, but unfortunately they have died too, from an overdose. And that is not a unique story, particularly in the Aboriginal communities but, even more broadly, for those in the substance-using community as well—for people who use drugs. It is tragic, and I cannot believe that we live in a society where we continue to

implement, punish and sit back and point fingers and judge people, and people are dying all the time. I cannot fathom it—it blows my mind.

**Mr BARTON:** Thank you, Kasey.

**The CHAIR:** I know. It is just horrible. Rei, looking at family violence—as you know, we have just completed and tabled the criminal justice system inquiry. As Cathrine and I have both said, each chapter of that inquiry was worthy of an inquiry on its own. But when we looked at the connection with family violence and incarceration for women, the numbers were just so startling. I wondered if you had any comments about the children that get captured at that time. They are traumatised by the family violence that they have experienced and witnessed, but then when their primary caregiver, who maybe escaped family violence, is incarcerated—have you got any thoughts about the children in that area? Well, apart from not incarcerating women who are victims, are there are other things that this committee should be considering about those children?

**Mx ALPHONSO:** Well, it is tricky, because at the end of the day not incarcerating those women and not criminalising crimes of survival—and protection as well. I think so many criminalised behaviours are actually engaged in as protective strategies when a woman is navigating family violence. There are so many stories we hear of, you know, a woman's wrestling with the housing system and trying to get secure housing for herself and her kids or access to family violence support. Meanwhile, she and her kids are in a very unsafe situation, and it goes on for six months until finally she thinks, 'Well, this is getting me nowhere. I'm going to turn to hustles that I know and where I know that I can get money and that we can be safe for tonight', and then that behaviour becomes criminalised and the whole house of cards comes falling down. I mean, you know, we could talk about things like therapeutic intervention at that point—better wraparound family services, better health justice for children of criminalised people. But at the end of the day, until we understand the ways in which survival protective behaviours are criminalised, and the way that criminalisation and family violence intersect and women take protective measures so that women do not end up on remand just long enough to have their kids taken away and lose their job and lose their access to their community—

And, you know, suspended sentencing—I mean, there are lots of things that we could do, but it all comes back to, I think, recognising that interplay between criminalisation and family violence, recognising the way that is leveraged against women and recognising the way that their children are leveraged against them. You know, the threat of child protection involvement, the threat of child removal, is actually a deliberate mechanism of family violence, and if we engage in protective measures to prevent the criminalisation of those behaviours, we are not going to get anywhere. Further mandating and further resourcing—you know, those top-down structural responses—are not a sort of effective response. It needs to be bottom up. It needs to look like housing. It needs to look like decriminalisation. It needs to look like the service system understanding as well that mechanism of power and control that feeds through those structural harms. Does that make sense?

**The CHAIR:** It makes sense, and unfortunately these are just the common themes from pretty much every single inquiry that we do. You know, if we could just sort out disadvantage—

**Mx ALPHONSO:** Or at least direct resourcing. You know, we have had our day at having a carceral response to these problems of social justice and community welfare—how about we start at the bottom? You know, let us divert some resources from carceral responses. Instead of going, 'Oh, there are lots of women on remand. Let's build a bigger prison', how about we just look at community housing?

**Mr BARTON:** How about not putting them in there?

**Mx ALPHONSO:** Yes. Sorry, it just does not seem that complicated to me, but it must be or we would not be here.

**The CHAIR:** No. You are right. But it is: 'How do we do this?'. It is a whole-of-government response, and how do you get governments to respond as a whole? You know, we have seen the apparent will to do that with family violence. We seen the apparent will to do it with mental health. But we are five years out from the Royal Commission into Family Violence and—

**Ms FLETCHER:** It is still not translating.

**The CHAIR:** It is still not translating.

**Mx ALPHONSO:** No, and the money still trickles from the top down, doesn't it?

**The CHAIR:** So if you could include that in your submission as well—how to solve that—that would be terrific. VACRO, take that as a question on notice for you as well as we come up to you.

**Ms FLETCHER:** Look, I think it can look too hard, but I do think that the lens—

**The CHAIR:** Karen, can I just interrupt for a second?

**Ms FLETCHER:** Sorry.

**The CHAIR:** We just want to thank all three of you—all four of you; pardon me, Rei—and the work of Flat Out. It is absolutely amazing. We could spend the day talking about this. We look forward to your submission. You will receive a transcript of today. Please have a look at it and correct anything that we need to correct. The committee will adjourn for about 5 minutes. We will reconvene at 12.10. Thank you.

**Witnesses withdrew.**