

Inquiry into children affected by parental incarceration

April 2022

Acknowledgement of Traditional Owners

Safe and Equal acknowledges Aboriginal and Torres Strait Islander peoples as the traditional and ongoing custodians of the lands on which we live and work. We pay respects to Elders past and present. We acknowledge that sovereignty has never been ceded and recognise First Nations peoples' rights to self-determination and continuing connections to land, waters, community and culture.

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About Safe and Equal

Safe and Equal is the peak body for specialist family violence services that provide support to victim survivors in Victoria. The interests of people experiencing, recovering from, or at risk of, family violence is at the heart of everything we do. Our vision is a world beyond family and gender-based violence, where women, children and people from marginalised communities are safe, thriving, and respected. We recognise the gendered nature of violence in our society, and the multiple intersecting forms of power and oppression which can compound the impacts of violence and limit people's access to services, support, and safety. We work closely and collaboratively with other organisations and support the leadership of victim survivors to amplify their voices and create change.

We provide specialist expertise across primary prevention, early intervention, response and recovery approaches and the inter-connections between them. Our work is focused on developing and advancing specialist practice for responding to victim survivors, building the capability of specialist family violence services and allied workforces, organisations and sectors that come into contact with victim-survivors; building the capabilities of workforces focused on primary prevention; and leading and contributing to the translation of evidence and research, practice expertise, and lived experience into safe and effective policy, system design and law reform.

We develop family violence practice and support workforces to ensure that victim survivors are safe, their rights are upheld, and their needs are met. The prevalence and impact of family and gender-based violence will be reduced because we are building a strong and effective workforce responding to victim survivors that can meet the needs of the community we serve, while also having a growing and impactful workforce working to prevent violence.

We work to strengthen and connect organisations, sectors, and systems to achieve safe and just outcomes for victim survivors irrespective of entry point, jurisdiction and individual circumstances. Joining efforts across prevention, response, and recovery we work to ensure the family violence system is informed and supported by a well-resourced and sustainable specialist sector. Our contributions to primary prevention workforces, initiatives and alliances contribute to social change for a safer and more respectful community.

We are building momentum for social change that drives meaningful action across institutions, settings, and systems for a safer and more equal society. Our workforce and practice development efforts are coupled with a partnership approach that builds community awareness and commitment to change. Our expertise and efforts enable citizens across the community to recognise and respond to family and gendered violence, hold perpetrators to account and support the ongoing recovery and empowerment of victim survivors.

We are a strong peak organisation providing sustainable and influential leadership to achieve our vision. The work we do and the way we work are integrated and align with our values. This is achieved through inclusive culture, and a safe and accessible workplace supported by robust systems and processes.

Use of language

Family violence

Safe and Equal recognises family violence as any behaviour that occurs in family, domestic or intimate relationships that is physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening or coercive; or is in any other way controlling that causes a person to live in fear for their safety or wellbeing or that of another person. **In relation to children, family violence is defined as behaviour by any person that causes a child to hear or witness or otherwise be exposed to the effects of the above behaviour.**¹

Victim-survivor, perpetrator, women and mother

Family violence is predominantly driven by gender-based oppression and inequality. Research to date demonstrates that the majority of perpetrators are men, and the majority of victim-survivors are women and children. As such, gender-binary language and terminology is often used in specialist family violence services to acknowledge and communicate about this deeply entrenched social problem. At the same time, family violence impacts people across a diversity of gender identities, social and cultural contexts, and within various intimate, family and family-like relationships. Consequently, at Safe and Equal we predominately use the gender-inclusive terms ‘victim-survivor’ and ‘perpetrator’ without assigning gender-binary terms (i.e. women and men) or pronouns (i.e. she/her and he/him) to acknowledge the complex ways family violence manifests across the community². Importantly, the term ‘victim-survivor’ refers to both adults and children who experience family violence, recognising that children and young people who experience family violence are victim survivors in their own right.

However, where references are being made specifically to the experiences of women, we use gendered language to accurately reflect this. **In this submission, we have focused on how women’s incarceration specifically affects children compared to the gender-blind notion of incarcerated parents.** As this Inquiry is concerned with children of imprisoned parents, our focus on women means we are primarily focused on the incarceration of *mothers* and the impact of this incarceration on their children. While we recognise that these terms are not inclusive of all individuals and/or families, we are approaching this submission from the evidence base that women are more likely to be the primary caregivers of children,³ thus their incarceration has a different effect on children than that of men’s incarceration, and that women’s experiences of incarceration and the drivers behind this incarceration are different from that of men’s incarceration.⁴

¹ See Family Violence Protection Act 2008 (Vic) s.5

² Domestic Violence Victoria (2020). Code of Practice: Principles and Standards for Specialist family violence services for VictimSurvivors. 2nd Edition. Melbourne: DV Vic. p9

³ Australian Human Rights and Equal Opportunity Commission (2005) Striking the balance: Women, men, work and family. Chapter 3; Fortune (26 June 2021) Women took on three times as much child care as men during the pandemic. <https://fortune.com/2021/06/25/women-men-unpaid-child-care-pandemic-gender-equality-workforce/>

⁴ Parliament of Victoria, (2022) Pg.59. Report: *Inquiry into Victoria’s Criminal Justice System - Vol I*, Legislative Council Legal and Social Issues Committee; Djirra (2021), pg.9, *Submission to the Parliamentary Inquiry into Victoria’s Criminal*

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Justice System, <<https://djirra.org.au/wp-content/uploads/2021/09/Djirras-submission-to-the-Parliamentary-Inquiry-into-Victorias-Criminal-Justice-System-September-2021-1.pdf>>

Introduction

Safe and Equal welcomes the opportunity to contribute to the Inquiry into Children of Imprisoned Parents. As the peak body for specialist family violence services that provide support to victim survivors in Victoria, our response to this inquiry centres the devastating and long-term impacts of family violence on children and their incarcerated family members.

The majority of women and gender diverse people in prison are survivors of violence and trauma (experienced either in childhood or as an adult).⁵ Recent figures from the Victorian Crime Statistics Agency (2018) indicate that the proportion of women prisoners who were recorded by police as having been involved in a family violence incident in the preceding two years is over 50%.⁶ It is worth noting that this figure almost certainly underrepresents the reality of family violence impact due to underreporting, among other factors.

This population of women and parents inside Victoria's prison system represents many children who are no longer able to live with their mother or parent and may not even be able to visit or maintain contact with them regularly. It is impossible to engage with relevant policy and service responses to children of incarcerated parents without also engaging with the current justice policy context and drivers of the ever-increasing rates of women being incarcerated in Victoria. It is essential that system and service responses to children, young people and their families prioritise the maintenance of safe and secure parental relationships, and actively work to restore connection when separation through imprisonment of a parent has occurred.

This submission recommends immediate action to reduce the number of women who are unnecessarily in Victorian prison facilities as a critical step towards ensuring that their children are cared for and remain connected to family and community. We also recommend the development of robust systemic levers and data collection strategies that ensure that the children of incarcerated parents are visible, and connected to the supports that they require. It is essential that, where safe, children are actively supported to stay connected to their parent in prison as well as their broader families, communities, and culture. This can be better achieved through sustainably funded, community run services.

In writing this submission, we are keenly aware that children and young people may have one or both parents in prison, and that parental incarceration is a huge disruption in any child or young person's life. As stated, this submission focuses primarily on the impacts of incarcerating mothers who are overwhelmingly survivors of family violence, and their children. We recognise that there are many children in Victoria whose fathers are incarcerated, either for family violence related matters or otherwise. Any child or young person who has experienced family violence and trauma is entitled to a tailored, trauma informed, specialist family violence response. Our call for community based, trauma informed, strengths-based, specialist family violence support to be made available for

⁵ Caruana, C., Campbell, E., Bissett, T & Ogilvie, K. (2021). Pg.23. Leaving custody behind: Foundations for safer communities and a gender-informed criminal justice systems Centre for Innovative Justice, RMIT University, Melbourne.

⁶ Walker, S., Sutherland, P., and Millsted, M. (2019). Characteristics and offending of women in prison in Victoria, 2012-2018. Melbourne: Crime Statistics Agency.

children and young people should be equally applied to any child or young person who has experienced family violence and who may have a parent incarcerated for offences related to family violence.

Summary of Recommendations

Recommendation: In line with Djirra's 2021 recommendation to the IVCJS, prioritise repealing the reverse-onus and double uplift provisions of the Bail Act 1977 (Vic) (Bail Act) and provide a presumption in favour of bail unless there is a specific and immediate risk to the safety of another person.⁷

Recommendation: Ensure priority access to social housing, and where sustainable other forms of housing, for women on remand and exiting prison, particularly when they have children, so intergenerational disadvantage and homelessness can be disrupted.

Recommendation: Support Aboriginal and Torres Strait Islander self-determination through uplifted and sustainable funding to specialist family violence and youth focussed Aboriginal controlled organisations.

Recommendation: Develop a systemic response to children and young people of incarcerated parents. This must be center community led, sustainably funded services – this system and coordination does not currently exist and must be developed and implemented as a matter of priority.

Recommendation: Apply Rule 64 of the Bangkok rules and take into consideration the parenting and care-giver status of women and non-violent parents when sentencing, and only use custodial sentences as a last resort.

Recommendation: Amend legislation to allow for court discretion in extending time frames for reunification, in circumstances where this remains safe and in the best interests of the child and their family, to account for experiences of family violence and/or incarceration of the primary care giver.

Recommendation: Develop a minimum data set to be implemented across the relevant bodies (courts, Corrections, police, Child Protection) to engage with incarcerated parents and their children, and identify and connect children and young people to appropriate, community run support services.

Recommendation: Consult widely with lived experience advocates (including, especially children and young people) and the family violence and other community sectors to determine and fund the types of supports that are required to best meet the support needs to children and young people.

⁷ Djirra (2021) Pg.9. Op Cit.

Victoria's women's incarceration crisis – and the impact on children and young people

The rise of women's criminalisation and incarceration in Victoria has been well documented, most recently collated and reported on by the 2022 Inquiry into Victoria's Criminal Justice System (IVCJS). Victoria is experiencing a dramatic and unacceptable increase in the number of women being incarcerated (137.82% over the previous decade⁸), including a dramatic rise in the number of unsentenced women entering the prison system on remand (43% of the total number of women in prison in 2020⁹). Most women who have been convicted are serving sentences for non-violent crimes including theft and drug related crimes and are on short term sentences, which are "often causally connected to family violence and disadvantage"¹⁰. Up to 70% of women in prison are parents¹¹, representing many children who have limited, or no contact with their mother.

It is essential to acknowledge that amid the incarceration crisis, Aboriginal women and families are some of the most critically impacted and are incarcerated at proportionately higher rates than non-Aboriginal people. The overrepresentation of Aboriginal and Torres Strait Islander women in the prison system and the impact on their children must be understood in the context of colonialism and structural racism. As noted in the final report of the IVCJS (2022), most Aboriginal people will not come into contact with the justice system in their lives, however "those who do are more likely to have long-term, sustained contact".¹²

The drivers of this incarceration crisis are complex, with foundations in gendered and structural inequality, belying a litany of systemic failures. The impacts of family violence on the criminalisation of women come to bear in misidentification by police of victim-survivors of family violence as perpetrators,¹³ as well as driving and compounding other structural forms of disadvantage and oppression. A study conducted by Fitzroy Legal Service and the La Trobe Centre for Health, Law and Society in 2020 referred to the 'constellation of circumstances' that contribute to and drive women's criminalisation and incarceration which include "homelessness, poverty, family violence, untreated health problems and addiction"¹⁴. Finding 57 from the IVCJS articulates that, in addition to the trauma and disadvantage experienced by women as a result of family violence prior to being incarcerated, "the conditions in Victorian prisons can retraumatise incarcerated

8 Caruana, C., Campbell, E., Bissett, T & Ogilvie, K. (2021). Pg.11. Op Cit.

9 Parliament of Victoria, (2022) Pg.59. *Report: Inquiry into Victoria's Criminal Justice System - Vol I*, Legislative Council Legal and Social Issues Committee

10 Djirra (2021), pg.9, *Submission to the Parliamentary Inquiry into Victoria's Criminal Justice System*, <<https://djirra.org.au/wp-content/uploads/2021/09/Djirras-submission-to-the-Parliamentary-Inquiry-into-Victorias-Criminal-Justice-System-September-2021-1.pdf>>

¹¹ Walker, S., Sutherland, P., and Millsteed, M. (2019). Pg.15. Op Cit.

¹² Parliament of Victoria (2022) Pg.151. Op Cit.

¹³ Smart Justice for Women (2021), *Submission to the Inquiry into Victoria's Criminal Justice System Reducing the criminalisation of women in Victoria*, <https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_Victorias_Justice_System_/Submissions/094_Smart_Justice_for_Women_Redacted.pdf>

¹⁴ Russell, E., Carlton, B., Tyson, D., Zhou, H., Pearce, M., & Faulkner, J., (2020). Pg.5. *A Constellation of Circumstances: The Drivers of Women's Increasing Rates of Remand in Victoria*, Fitzroy Legal Service and the La Trobe Centre for Health, Law and Society: Melbourne.

women by echoing the power dynamics of abusive relationships and separating mothers from dependent children.”¹⁵ In addition to the structural replication of abusive power dynamics that imprisoned women experience, the systemic and punitive removal of children from their parents replicates the abuse and disruption to the child-mother bond that children often experience at the hands of perpetrators.

As noted by the IVCJS (2022), women risk losing housing, employment and custody of their children while imprisoned. Even short periods of imprisonment due to remand can result in catastrophic implications for women and their children, furthering the legacy of family violence, trauma and structural disadvantage. Further, Djirra (2021) stated in their submission to that inquiry, the “housing instability and lack of culturally appropriate supports are key reasons for Aboriginal and Torres Strait Islander women remaining on remand”.¹⁶

Concerted and urgent measures to address the drivers of women’s incarceration are required to stop Victoria’s “prisons functioning as a substitute for social and community infrastructure”.¹⁷ The following sections address a number of key areas requiring immediate action.

Remand and bail reform

A crucial step towards reducing the footprint of the justice system, and ensuring that women are not unnecessarily incarcerated and separated from their children, will be to repeal the changes made to the Victorian Bail Act in 2018.

These reforms were intended to keep the community safe from serious and imminent risk, yet we now know that they have led to a larger proportion of women on remand in recent years than men, with the numbers even higher for Aboriginal women.¹⁸ The intersecting and compounding social disadvantage experienced by women interacting with the justice system - including access to housing, personal relationships and family support, mental health and alcohol and drug supports - are presented in the court room as ‘risks’, which reduce the likelihood of them being granted bail¹⁹. These circumstances often result from inadequate support for recovery from violence and trauma, rather than individual shortcomings, and the system’s failure to recognise this leads to further perpetuation of trauma, gender and social inequality and intergenerational cycles of disadvantage for these parents and their children.

Recommendation: In line with Djirra’s 2021 recommendation to the IVCJS, prioritise repealing the reverse-onus and double uplift provisions of the Bail Act 1977 (Vic) (Bail Act) and provide a presumption in favour of bail unless there is a specific and immediate risk to the safety of another person.²⁰

¹⁵ Parliament of Victoria (2022) Pg.618. Op Cit.

¹⁶ Djirra (2021) Pg.10. Op Cit.

¹⁷ Caruana, C., Campbell, E., Bissett, T & Ogilvie, K. (2021) Pg.13. Op Cit.

¹⁸ Parliament of Victoria (2021) *Inquiry into homelessness in Victoria Final report*. Legislative Council Legal and Social Issues Committee

¹⁹ Russell, E., Carlton, B., Tyson, D., Zhou, H., Pearce, M., & Faulkner, J., (2020). Pg.5. Op. Cit.

²⁰ Djirra (2021) Pg.9. Op Cit.

Housing and homelessness

Family violence is the leading cause of homelessness in Victoria²¹. Access to stable and safe housing is not only an essential prevention measure to women being incarcerated, but homelessness and housing crisis among criminalised women is a key barrier to successful applications for bail and parole.²² As noted by the Centre for Innovative Justice (2021), the “availability of safe housing is arguably the most central component in women’s reunification with their children, as well as being central to avoiding further contact with the criminal justice system”²³.

Women’s inability to access bail due to a lack of housing directly affects their children’s wellbeing as it increases the likelihood of being separated from their mother. Likewise, the inability to obtain housing needed to satisfy court orders directly affects children’s wellbeing as the lack of housing could prevent reunification even when it may be in the child’s best interest to do so if only housing could be provided.

Demand for public housing, and homelessness support far outstrips the current systemic capacity. Failure to provide criminalised women and their families with safe and stable housing ensures that cycles of family separation, family violence, homelessness and poverty continue and that the impact of a parent’s incarceration on a child’s life is amplified.

The Victorian Government’s Big Housing Build goes some way towards increasing the supply of affordable housing for people on low incomes. However, criminalised women and their families are likely to continue to miss out if a concerted effort is not made to ensure that this highly marginalised group is successfully housed. High housing costs mean that social housing continues to be the only viable, long-term housing solution for many criminalised women and their families. It is imperative that social housing is increased as a mechanism to help stabilise criminalised women’s living environment so they can provide a home to their children.

Recommendation: Ensure priority access to social housing, and where sustainable other forms of housing, for women on remand and exiting prison, particularly when they have children, so intergenerational disadvantage and homelessness can be disrupted.

Culturally appropriate services and Aboriginal self-determination

We take this opportunity to endorse the finding of the IVCJS (2022), informed by the expertise of our Aboriginal and sector colleagues, that “greater self-determination is the only approach which can overcome the entrenched disadvantage experienced by some Aboriginal Victorians and sustainably reduce their overrepresentation in the criminal justice system”.²⁴ Racism and discrimination are drivers of Aboriginal people’s over incarceration, including Aboriginal women, and we recognise the strength and resilience of Aboriginal and Torres Strait Islander communities in the face of the ongoing impacts of colonisation, racism and discrimination. Sustainably funding best practice programs,

²¹ Parliament of Victoria (2021). Pg. xxi. Op Cit.

²² Caruana, C., Campbell, E., Bissett, T & Ogilvie, K. (2021), pg.48, Op Cit

²³ Caruana, C., Campbell, E., Bissett, T & Ogilvie, K. (2021), pg.31, Op Cit

²⁴ Parliament of Victoria (2022). Pg.165. Op Cit.

models and services is the only way to uphold the rights and best interests of Aboriginal and Torres Strait islander children, young people and their families²⁵.

Recommendation: Support Aboriginal and Torres Strait Islander self-determination through uplifted and sustainable funding to specialist family violence and youth focussed Aboriginal controlled organisations.

In order to keep children and young people in view at the point at which their parent is incarcerated, there must be a coordinated, systemic response which centers their needs and keeps them connected to their families, communities and services. This will require the development of systemic levers which ensure that no child is forgotten or falls through the cracks as a result of parental incarceration.

Findings from the evaluation of Safe & Together model (STACY for Children) (2020), articulated the importance of recognising and supporting adults as parents, in order to 'enhance visibility of their children'.²⁶ When the state and judicial system has made the decision to imprison a parent, there is an ethical imperative that the government and wider community ensure that their children are not also punished. There is a critical need for systemic enablers that not only identify these young people, but also ensure that they are listened to, and are subsequently connected to the supports they require.

To be clear, we do not suggest that government should take on a statutory role in taking responsibility for, or providing service responses to, the children of incarcerated parents. Rather, the Victorian Government needs to commit to developing systems that identify children whose parents are incarcerated, so that their support needs can be assessed and provided for and so that, where possible and in the best interests of the child, family reunification can be achieved. This service provision should be led by specialist community services, particularly Aboriginal Community Controlled Organisations when appropriate, to minimise further contact with statutory services and/or the justice system.

Recommendation: Develop a systemic response to children and young people of incarcerated parents. This must be center community led, sustainably funded services – this system and coordination does not currently exist and must be developed and implemented as a matter of priority.

Child protection and reunification

Currently, it is not easy to identify how many children are subject to temporary care orders as a direct result of their primary care giver being incarcerated. However, it has been established that there are many women currently on remand or on short term sentences in Victorian prisons who are mothers and unnecessarily separated from their children (in 2018, 65% of unsentenced women in Victorian prisons were mothers²⁷).

The Centre for Innovative Justice highlighted the value of a human rights framework in addressing Victoria's incarceration crisis in their issues paper (2021), and more

²⁵ Djirra (2021) Pg.8. Op Cit.

²⁶ Humphreys, C., Kertesz, M., Parolini, A., Isobel, J., Heward-Belle, S., Tsantefski, M., ... Healey, L. (2020). Pg.88. Safe & Together Addressing ComplexitY for Children (STACY for Children) (Research report, 22/20). Sydney: ANROWS.

²⁷ Walker, S., Sutherland, P., and Millsteed, M. (2019). Pg.15. Op Cit.

specifically the *Bangkok Rules – the United Nations Rules for the Treatment of women prisoners and non-custodial measures for women offenders*. We note specifically Rule 64: “Non-custodial sentences preferred for pregnant women and those who are the primary care giver of children”²⁸, which can be applied in the Victorian context to prevent children and young people from unnecessarily being separated from their mothers and placed in out of home care.

The permanency and reunification timelines for parents seeking to regain primary care of their children have come under significant scrutiny in the past few years, as noted in the IVCJS report (2022). The Inquiry heard that “legislated timeframes for the reunification of families, following the placement of children in out-of-home care, are unrealistic for families with incarcerated mothers, particularly for Aboriginal families.”²⁹ As noted previously, unstable housing and homelessness are often insurmountable barriers to women and parents who are exiting prison and working towards regaining care of their children. However, there are many other factors which impact mothers’ capacity to meet court requirements within the statutory reunification timeframes, including waitlists for supports programs, delayed referrals, limited support options in regional areas, and lack of systemic responses capable of integrated support for intersecting and complex support needs.³⁰ The added impact of the COVID-19 pandemic continues to make it even more difficult to access services, meet court expectations and maintain contact with their children.

Inflexible timeframes for reunification are not trauma-informed and are not responsive to the complexity and limitations of the service system and current context. For this reason, legislation needs to change to allow for court discretion in extending timeframes for reunification, in circumstances where this remains safe and in the best interests of the child and their family.

Of course, not every child whose parent is incarcerated has contact with the Child Protection system or is placed on a temporary care order. Of those young people who are subject to a temporary care order, we know that many are placed with extended family or kin, which is considered to be in the best interests of the child.³¹ Safe and Equal supports this and efforts to preserve children’s connections to family, community and culture. However, it is essential that effective and family violence informed risk assessments underpin any placement and that children are not placed in the care of a parent who has perpetrated family violence. Family violence is a key risk factor in a majority of child protection interventions and “restoring and supporting safe and secure parent-child relationships, often strategically undermined by the abusive parent, needs to form a critical element of Child Protection interventions with families affected by DFV”.³²

²⁸ United Nations Office on Drugs and Crime (2010) *United Nations rules for the treatment of women prisoners and non-custodial measures for women offenders (The Bangkok Rules)*.

²⁹ Parliament of Victoria (2022), Pg.617. Op Cit.

³⁰ Pfitzner, N., Meyer, S., Helps, N., & McGowan, J. (2022). *Stronger Together: Strengthening families to improve outcomes for children*. Monash University.

³¹ Pfitzner, N., Meyer, S., Helps, N., & McGowan, J. (2022). Op Cit.

³² Pfitzner, N., Meyer, S., Helps, N., & McGowan, J. (2022). Pg. 9. Op Cit.

Recommendation: Apply Rule 64 of the Bangkok rules and take into consideration the parenting and care-giver status of women and non-violent parents when sentencing, and only use custodial sentences as a last resort.

Recommendation: Amend legislation to allow for court discretion in extending time frames for reunification, in circumstances where this remains safe and in the best interests of the child and their family, to account for experiences of family violence and/or incarceration of the primary care giver.

Systemic data collection

Visibility of children and young people whose parents are in prison and their supports needs would be significantly improved by targeted data collection. There are critical gaps in data and evidence relating to the experiences and circumstances of children and their parents who are incarcerated. For example, we are not aware of publicly available data on the number of children who are in the out of home care system as a direct result of their parent(s) being incarcerated. Additionally, we are not aware of aggregate data relating to the number of young people on temporary care orders who have experienced family violence. In order to develop a nuanced understanding of this cohort of children and young people, it is important that key touch points in the system actively seek information relating to the children of parents who are in the prison system, including police, courts, Corrections and Child Protection.

Recommendation: Develop a minimum data set to be implemented across the relevant bodies (courts, Corrections, police, Child Protection) to engage with incarcerated parents and their children, and identify and connect children and young people to appropriate, community run support services.

Trauma informed, strength-based, specialist family violence support for children and young people – in their own communities

The rates of historic or current family violence among prisoners in Victorian prisons, over half of whom are parents, point to a critical need for tailored and specialist support for their children which is responsive to family violence trauma. The children of incarcerated parents who are impacted by family violence must be recognised and supported as victim-survivors in their own right.

The Victorian Royal Commission into Family Violence (2016) noted a historical ‘invisibility’ of children and young people’s experiences of family violence and referenced at the time “a lack of sufficiently targeted responses to young people as victim-survivors in their own right.”³³ As stated in the previous section, appropriate service provision and support will

³³ Family Safety Victoria (2016). Pg.8. *Royal Commission into Family Violence: Summary and Recommendations*. Melbourne, VIC: State of Victoria

only be possible through coordinated systemic responses which must be developed as a matter of urgency.

Children and young people have a right to specialist, holistic support options that are developmentally appropriate and respond to the young person's needs and aspirations. The incarceration of a parent is likely to be the culmination of a distressing and traumatic period for a young person, and it is critical that disruption to their lives is mitigated as much as possible. No two young people have the same experiences or identical support needs. It is essential that systemic and programmatic responses to children and young people employ an intersectional lens that illuminates family violence as a "multi-axis' intersectional abuse of power that is simultaneously misogynist, homophobic, ageist, ableist, etc."³⁴ Furthermore, commitment and coordination are required to ensure that where at all possible, children and young people are supported to remain safely in their own schools and connected to family and community, as well as to their parent who is in prison. Exposure to family violence and living with someone who has been imprisoned are both factors (among others) which have been found to elevate risk of criminalisation and engagement with the justice system later in life.³⁵ Making a commitment to community lead, place-based programs that are dedicated to children and young people of incarcerated parents is essential for interrupting cycles of trauma and intergenerational disadvantage.

Safe and Equal hopes to see a commitment to addressing the systemic gaps in specialist service provision for children and young people whose parents are incarcerated, and in particular, who have current or previous experiences of family violence. These service gaps are well established, and this inquiry has an invaluable opportunity to address this through recommending and supporting investment in community led, grassroots initiatives that wrap around both children and young people and parents as they navigate the huge disruption of incarceration. This work should be underpinned by consultation and co-design with lived experience advocates, including children and young people, as well as relevant service sectors including Aboriginal controlled organisations, specialist family violence and youth services, mental health and homelessness services.

Recommendation: Consult widely with lived experience advocates (including, especially children and young people) and the family violence and other community sectors to determine and fund the types of supports that are required to best meet the support needs to children and young people.

Conclusion

The complex intersections between structural inequality, family violence and the rising rates of incarceration of women in Victoria cannot be ignored when working to centre and support the children of incarcerated parents. Concerted and proactive engagement to address the issues highlighted in this submission are foundational to upholding the rights

³⁴ Domestic Violence Victoria (2020). Pg.30. *Code of Practice: Principles and Standards for Specialist Family Violence Services for Victim-Survivors. 2nd Edition.* Melbourne: DV Vic.

³⁵ Parliament of Victoria (2022). Pg.99. Op Cit.

and best interests of children and young people, both as preventative measures to the separation of parents and children, and also in cases where a parent has been incarcerated. Action must be taken to address exacerbating factors, including the disproportionate impact of punitive bail and remand legislation on women, and lack of stable and sustainable housing as key drivers of the criminalisation of women in Victoria. We have also pointed to the need for a review of the inflexible permanency timeframes in relation to reunification orders.

Sustainably funded, community run services are essential to keeping children and young people connected to family, community and culture. Every young person deserves tailored, strengths based and trauma informed support to navigate the disruption and challenges of having a parent incarcerated. Targeted data-collection and a systemic commitment to keeping these children and young people in view and holistically supported is crucial to ensuring that systemic gaps in specialist service provision for this cohort are addressed, particularly, for those who have current or historical experiences of family violence.