

**Submission
No 24**

SUPPORT FOR CHILDREN OF IMPRISONED PARENTS IN NEW SOUTH WALES

Organisation: Public Health Association of Australia (PHAA)

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Public Health Association
AUSTRALIA

Public Health Association of Australia submission on support for children of imprisoned parents in New South Wales

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Preamble

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia.

The PHAA works to ensure that the public's health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.



Public Health Association
AUSTRALIA

Introduction

PHAA welcomes the opportunity to provide input to the Committee on Children and Young People's Inquiry into support for children of imprisoned parents in New South Wales. This is a group of children and young people often forgotten in policy and program design and delivery, but for whom the experience of parental incarceration can be traumatic. With the most recent inquiry into this issue being over 20 years ago, the current inquiry is timely. Ensuring that recommendations from this new inquiry are acted upon will be vital to improving outcomes for these children.

PHAA Response to the Inquiry Terms of Reference

(a) What policies exist and what services are available

Mothers in prison

With no routine data collection on the children of prisoners in Australia, the number of children in this group is unclear. In 2004 it was estimated that 20% of Aboriginal children and 4% of non-Aboriginal children in NSW experienced a parent going to prison.¹ Since then there has been a rapid increase in the prisoner population, especially among women, increasing the number of children affected accordingly. The number of people in Australian prisons increased by 56% between 2008 and 2018, during which the general population in Australia increased by just 17%.² In a shorter period of time, between 2011 and 2017, there was a 50% increase in the adult female prison population.³ The increased incarceration of Aboriginal women (including mothers) in Australia is undermining the central role that Aboriginal women play within Aboriginal cultural kinships systems.⁴ It is estimated that over 80% of Aboriginal women in prison are mothers to both biological children and those of their extended families.⁵ As a result of increasing punitive laws and incarceration, Aboriginal children are losing their primary and/or sole caregivers.

Nationally, 38% of people entering prison reported having children in the community who were dependent on them for their basic needs, including 54% of women and 36% of men. Of the 803 prison entrants surveyed, there were a total of 1,451 dependent children, representing almost 2 children per prison entrant.² With an estimated 50,000 people entering prison nationally in 2014,⁶ this would translate to an estimated 100,000 dependent children experiencing parental imprisonment. Among Indigenous communities, there are proportionally more children affected, with Indigenous parents more than twice as likely as non-Indigenous parents to report having 4 or more dependent children prior to entering prison (12% compared with 5%).²

Within NSW, in 2015, 46% of prisoners reported having at least one child under the age of 16, including 55% of women, 45% of men. This includes 10% who had children under the age of 16 but were not living with them at the time of incarceration. Of those with dependent children at home, 82% said their children were living with their other parent, and 13% with another relative. But for women prisoners, 31% said the children were living with another relative while they were in prison.⁷ Reflecting the national picture, 73% of Aboriginal women in prison reported having dependent children under the age of 16 years, compared with 55% of other females in prison.⁸ A study of Aboriginal mothers in NSW and Western Australian prisons found that about 50% were caring for children under the age of 5 at the time of their incarceration.⁹

Effects on children

The impacts on children of having a parent sent to prison should not be underestimated - they are multifaceted, significant and long lasting.

The first and most immediate issue is often – who is looking after the children while the parent is in prison, and how can and should contact with the parent be maintained? In NSW, 82% of imprisoned parents with dependent children said their children were living with their other parent, and 13% with another relative. But among mothers, 31% reported that their children were living with another relative while they were in prison.⁷

Children of imprisoned parents grieve their absence – there is a profound effect on their behaviour with exposure to discrimination, violence and abuse, and wanting to maintain contact with the imprisoned parent.¹⁰ However, contact is often difficult. There are many complexities involved, including the quality of relationships, children’s participating in decision making, the challenges and benefits of contact, and practical issues.¹¹ Those practical issues include not only the challenges associated with taking children into a secure prison environment for visits. Just getting there can be a major barrier. In NSW prisoners reported an average 3 hour travel time for people likely to visit them.⁷ Further work needs to be done to engage children’s views on the complex issues surrounding visiting imprisoned parents,¹² and new technologies open new possibilities on how that may be achieved.

Children who experience maternal incarceration are significantly more likely to be in out of home care, and have poor health outcomes. In Western Australia, among children whose mother was imprisoned when they were under 2 years old, half were in contact with child protection services, 31% of Aboriginal and 35% of other children entered out of home care.¹³ Importantly, mothers being imprisoned increase risk for future children also, with infant mortality higher for children whose mothers were imprisoned in the 5 years prior to birth or within 12 months of birth, compared with the general population.¹³

Intergenerational impacts may continue for children and young people of imprisoned parents. More than half (54%) of young people in detention in NSW reported that at least one of their parents had been incarcerated in the past, including 68% of Aboriginal young people, and 37% of other young people.¹⁴ Almost one in five people entering adult prisons in Australia reported that one or more of their parents or carers had been in prison during their childhood.²

It should also be remembered that sometimes the imprisoned parent is themselves not yet an adult. Of young people in custody in NSW, 11% (mainly males), were parents themselves, with the average age at which the first child was born being 16 years.¹⁴

Children of imprisoned parents experience twice the risk of health problems as those in the general community, including difficulties in the environment, academic and behavioural problems, and social stigma.¹⁵ Children manage stigma in a variety of ways, including by maintaining privacy and withholding information, self-exclusion and self-reliance, and managing relationships.¹⁶ Strategies for coping include maintaining distance from the imprisoned parent, normalising the parent’s situation, and taking better control over their own lives through distraction, sports, supportive people and therapy.¹⁵

Resilience is shown through engaging in school and social activities.¹⁰ It is therefore crucial that the school-based interventions and mentoring programs which children find most useful and supportive¹⁵ are available and accessible.

(b) How effective these services are and identifying areas for improvement

The needs of children of imprisoned parents, must be considered by many sectors, including the criminal justice system itself. Consideration of these children by police and magistrates is often ad-hoc and dependent on good will and the exercise of discretion.¹⁷ A study of arrested fathers in Victoria found that police often did not ensure suitable care arrangements for children.¹⁸ Primary carers in prison report that suitable care arrangements for children are often only discussed at sentencing, and that instability was common, especially for those in out-of-home care.¹⁹ Recommendations for prisons include increasing the accessibility of public transport, child liaison officer positions, and maintaining extended family visits.²⁰ Child-focused practices are required to reduce the disadvantage for these children.¹⁷

Children are often invisible to policy makers. There is a need to see children in more holistic ways so that systems can respond collaboratively to effectively support children, who often have to rely on adults to recognise issues around parental incarceration and petition for them.²¹ The responses of schools are often limited by knowledge, and fragmented service delivery, with greater awareness required to increase positive responses.²² It is important also to see the child as an individual with unique circumstances and needs. While recognising the increased risk of poor health and social outcomes for children of prisoners, the response must be supportive and avoid pathologising them by assuming the children will follow their parents into prison.²³

All programs delivered should be informed by the particular needs of the communities in which they are delivered. Due to unique cultural, social and historical factors, specific solutions to address issues of disadvantage designed by Aboriginal and Torres Strait Islander people are required. Culturally safe and trauma-informed services are key to ensuring access for Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander Community Controlled Health Organisations have a track record of effective and efficient holistic models of care among young people²⁴ and should be preferred providers of services.

(c) Any other related matters

Australia has international obligations relevant to this Inquiry. The United Nations Convention on the Rights of the Child which Australia has ratified includes:²⁵

- Article 7: Children have the right to a legally registered name and nationality. Children also have the right to know their parents, and, as far as possible, to be cared for by them.
- Article 9: Children should not be separated from their parents unless it is for their own good.

In the most recent of the required 5 yearly reports on how it is maintaining and enhancing these rights, there were the following “observations”:²⁶

- 174. Australia acknowledges the significant social risks and disadvantages faced by children of incarcerated parents, and the impacts on family structure and care arrangements.
- 175. A parent in prison may apply for parenting orders and the Family Law Rules 2004 make provision for a party in prison to attend proceedings and give evidence by electronic communication. A family court will regard the best interests of the child as paramount when making parenting orders, which could include maintaining a meaningful relationship with an incarcerated parent where this is safe for the child.
- 176. The Northern Territory, Queensland and Tasmania have facilities that accommodate mothers and their children, where that is in the best interest of the child. These jurisdictions, as well as the

Australian Capital Territory, Victoria and Western Australia operate programs that facilitate contact between incarcerated parents and their children.

This is the first inquiry in NSW into this issue since the 1997 Standing Committee on Social Issues report Children of Imprisoned Parents.²⁷ The key conclusions of this report were:

- Sentence of imprisonment as last resort
- Data on the number of parents in prison and on the number of children who have parents in prison should be maintained to ensure that effective policies and strategies are developed for these children
- Effective pre- and post-release services that have as a focus, family support and re-unification, should be properly resourced and available throughout NSW

The report included 97 recommendations including for Ministers of Community Services, Education, Transport, Housing, as well as Police, Juvenile Justice and Attorney-General and Corrective Services. By 2004, few of the recommendations had been acted upon.¹ It is not clear how much progress has been made since on each recommendation since that time, but PHAA notes that the most recent NSW Inmate Census 2018 report²⁸ contains no data on the children of prisoners.

Thousands of children in NSW experience a parent going to prison each year. For them, it is vital that we ensure the recommendations of the current Inquiry do not similarly gather dust on a shelf.

Conclusion

PHAA supports the broad directions of the inquiry into support for children of imprisoned parents in NSW. We are particularly keen that the following points are highlighted:

- Better data on the number and characteristics of children of prisoners is a basic necessity to inform policy, service planning and delivery
- Child-focused practice must be incorporated within the criminal justice system
- Children need to have their voice heard and be supported and empowered, rather than having to rely on adults to advocate for them
- Support services in the community need to recognise the importance of school-based interventions, social activities and mentoring programs

The PHAA appreciates the opportunity to make this submission and the opportunity to contribute to improving outcomes for children of imprisoned parents in NSW.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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