

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

**SUPPORT FOR CHILDREN OF IMPRISONED PARENTS IN NEW
SOUTH WALES**

At Jubilee Room, Parliament House, Sydney on Thursday, 29 April 2021

The Committee met at 9:05 am

PRESENT

The Hon. Matthew Mason-Cox (Chair)

Legislative Council

Mr David Shoebridge

Legislative Assembly

Ms Jodie Harrison
Ms Robyn Preston
Mr Dugald Saunders
Mr Peter Sidgreaves

The CHAIR: Good morning. I see some very familiar faces. Thank you for attending the first public hearing of the inquiry into support for children of imprisoned parents in New South Wales. Bear with me for a moment while I go through a few formalities before swearing in the witnesses. My name is Matthew Mason-Cox. I am the Chair of the Committee on Children and Young People. I am joined by my colleagues, the Deputy Chair and member for Camden Peter Sidgreaves; Jodie Harrison, MP, member for Charlestown; Robyn Preston, MP, member for Hawkesbury; Dugald Saunders, MP, member for Dubbo, who will be appearing via videoconference in due course; and Mr David Shoebridge, MLC, who will be with us shortly. Unfortunately, the Hon. Greg Donnelly is an apology for today. Before we start I would like to acknowledge the Gadigal people, who are the traditional custodians of this land, and pay my respects to the Elders of the Eora Nation, past, present and emerging. I extend that respect to other Aboriginal and Torres Strait Islander people who are present or who are viewing proceedings on the internet. I now declare the hearing open.

I welcome the representatives from SHINE for Kids—Mr Andrew Kew, Ms April Long, Mr Dennis van Someren and Ms Susan Plunkett. I thank you for appearing before the Committee. We have had the great opportunity of meeting with you on a number of occasions. I thank you very much for the important interaction that we have had. It has been an education for us, and a bit of an adventure at the same time. We really appreciate the support that you have given the inquiry to date, and we are very much looking forward to your evidence today.

ANDREW KEW, CEO, SHINE for Kids, sworn and examined

SUSAN PLUNKETT, NSW/ACT State Manager, SHINE for Kids, sworn and examined

APRIL LONG, National Operations Manager, SHINE for Kids, affirmed and examined

DENNIS van SOMEREN, Volunteer, SHINE for Kids, affirmed and examined

The CHAIR: Would you like to make an opening statement before we proceed with questions?

Ms LONG: Yes, we would.

The CHAIR: If you could keep it brief, that would be excellent. Thank you, Ms Long.

Ms LONG: My name is April Long. I am the National Operations Manager at SHINE for Kids. I am joined by Andrew Kew, Susan Plunkett and Dennis van Someren. Dennis represents 175 volunteers who work with us at SHINE for Kids. I too would like to acknowledge Gadigal country and share an extract from the Uluru Statement from the Heart:

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.

Thirty per cent of children who SHINE currently supports are Aboriginal and Torres Strait Islander children. When we talk about over-representation of Aboriginal and Torres Strait Islander people in our criminal justice system, it is the invisible victims of crime—the children of prisoners—who suffer greatest. SHINE acknowledges and endorses recommendations made by Aboriginal organisations during this inquiry. The first seven of our recommendations outline an emphasis on self-determination and Indigenous-led solutions. SHINE for Kids has been advocating for children of prisoners for almost 40 years. Children with a parent in prison are the invisible victims of crime. They are serving a hidden sentence without having committed any crime themselves. Many of the 97 recommendations made by the 1997 Standing Committee on Social Issues—*A Report Into Children of Imprisoned Parents*—chaired by SHINE's late patron the Hon. Ann Symonds, largely remain unimplemented.

Here we are 24 years later appearing before you again, outlining many of the same recommendations, as significant changes in policy and law remain unfulfilled. This is despite the good work of many committed individuals, both within the not-for-profit sector and across the New South Wales government. Our submission outlines 83 recommendations, and we have given you a copy of our top 15. Presently, SHINE is in nine out of 39 prisons, or 23 per cent. We know that 45.7 per cent of people in custody in New South Wales are parents to at least one child. Prior to the COVID-19 pandemic in New South Wales, SHINE supported a total of 4,006 children. This is noting that we are only in 23 per cent of state prisons. So, simply put, without urgent action, 77 per cent of children continue to miss out. The current Premier's priority has a focus on protecting our most vulnerable children and reducing recidivism in the prison population. We cannot achieve this in New South Wales without investing in the support of children with a parent in prison. We know from our colleagues in the UK and the

Lord Farmer report that, just by maintaining family connections, recidivism can be reduced by 39 per cent. Our Premier and this Parliament has a target of 5 per cent.

In highlighting all of that evidence, we urge this Committee to not just view children with a parent in prison through the lens of their parent's crime, but recognise and protect their human rights, as outlined under the Convention on the Rights of the Child. Children whose parents are imprisoned are a largely invisible and vulnerable group, whose rights and welfare are affected at every stage of the criminal proceedings against their parents—right from the point of arrest, through their incarceration and post-release or reintegration. Systematic problems such as this require systematic solutions. The incarceration of primary caregivers and the placement of their children into out-of-home care continues the cycle of intergenerational offending. It puts many of today's most vulnerable children on a trajectory of becoming incarcerated themselves in the future. We see this in our practice experience in New South Wales, but also in the 27 prisons that SHINE is in nationally. We also acknowledge and endorse Dr Kath McFarlane's submission that particularly mentions this matter of the pipeline of out-of-home care to the criminal justice system.

In New South Wales, sadly, children of prisoners continue to fall through the cracks created by inadequate program funding, ad hoc service provision, and a lack of clarity in law and policy on how best to respond to them and ensure that their rights and needs are considered and met. In human terms, imagine if your own children, nieces and nephews were not considered as part of any other government or social program, if they were not provided targeted and specialised support, if they remained invisible. These children are more likely than any other child to face significant disadvantage. They live with grief, shame, isolation and trauma. It took me to be 30 years of age to talk openly about my father's incarceration. But children of prisoners are children of promise, and you will hear some great stories today about children with a parent in prison who have gone on to do great things. However, it is also devastating to think that many of the children mentioned in the 1997 report may actually now be incarcerated themselves. We know that children with a parent in prison are four to six times more likely to end up in prison. We must stop this cycle.

As a community, we must invest in evidence and research-informed practice that achieves real outcomes for these children. So we call on the Premier of New South Wales to really implement our recommendations. We also seek advocacy and support from New South Wales to call on the federal government to actually have a national plan for children of prisoners. These issues in New South Wales also occur in other states, but we have the opportunity today to really walk beside children with a parent in prison and ensure their future is bright. You too can walk beside them, knowing in Parliament that you have played a part in a different trajectory in truly changing lives. I would now like to hand over to Mr Kew to talk about the economic case for why we must invest in children of prisoners.

Mr KEW: Good morning. My name is Andrew Kew and I am the CEO of SHINE for Kids. I have been working with children for over 20 years as a foster parent. Over that time, I have had 250 children come through my home. I have three boys of my own at home, and three foster children at home at the moment. During the last 20 years, a number of those children we have fostered have had a parent in custody; this is why I now work for SHINE for Kids and have done so for the last three years. The system we are working in needs reform. We need a system and programs that can better support the needs and aspirations of vulnerable children, young people and their families. SHINE for Kids delivers evidence-based programs that are improving lives and keeping families together. Early intervention makes sense, not just because it is the right thing to do, but financially, as well.

New South Wales has spent \$3.8 billion building new prisons over the last five years. As a nation we have spent \$16 billion annually on the criminal justice system. Their Futures Matter, the reform introduced by the New South Wales government, aims to deliver for disadvantaged children. The report covered 3.1 million children, and the model forecast that this group will cost the New South Wales and Commonwealth governments \$428 billion for key human services they use up to the age of 40. In New South Wales, 7 per cent of the study population makes up 50 per cent of the estimated costs of key New South Wales services—over \$54 billion. The report highlighted that the number one parental risk factor was having a parent in custody. SHINE works with these families and children, and is best placed to deliver early intervention services, with increased financial support.

The Mitchell Institute's *Counting the costs of lost opportunity in Australian education* report says that, from a social perspective, each early school leaver costs the Australian community \$1.1 million, or \$1.26 billion annually, for this cohort of long-term early leavers—a lifetime cost of \$50.5 billion. Leaving school early means you are likely never to return to study in adult life. SHINE for Kids supports 30 children in our RISE Education Program at a cost of \$5,000 per child. We should be investing early and holistically to ensure that children with a parent in prison thrive in education. Disparities in education attainment lead to major differences in many areas of life. People who miss out face increased likelihood of experiencing unemployment or underemployment, crime, public welfare dependency, and poor health.

SHINE has put forward a proposal like the Lord Farmer review recommends: reforms to the prison system and environment to make it more conducive to family relationships and their rehabilitation. Lord Farmer says relationships are the golden thread running through the prison system and the agencies that surround it. The principle is that relationships are fundamentally important if people are to change. SHINE's proposal focuses on a comprehensive list of supports that focus on the child, but also the whole family. These include intensive family case management and support; Belonging to Family pre- and post-release support for Indigenous families; Keeping Us Together parenting programs and playgroups; Ride By Your Side transport; and our in-custody programs. Whole-of-system reform relies on partnerships and collaborations of all New South Wales human service agencies and sector organisations. We need a whole-of-government approach to solving these problems. We simply cannot afford to do nothing.

The CHAIR: Thank you, Mr Kew. It might be wise at this stage, Dennis, if you could give us your experience and perhaps reflect on your role at SHINE, as well, given that you are the volunteer here.

Mr van SOMEREN: Thank you, Mr Mason-Cox. I started with SHINE 12 years ago. I think I went through yesterday the practical side of how it all unfolded. Going back to my childhood, I was 13 and on my first day at high school, my father was arrested, so I have been going through the effects of parental incarceration for 50 years. I did, more than 12 years ago, put the skeleton in the closet, locked it and threw away the key. Unfortunately—or fortunately, whichever way you look at it—Richard Fidler made me go and find the key again when he interviewed me. I have been reliving my experiences through the children that I have met and mentored through SHINE for Kids. On the first day of my high school, my father was arrested. My dad did not go to prison until I was 17. The whole family imploded during that time; I am seeing this with the children today. It is exactly the same story. Nothing has changed.

I went through discrimination, bullying and financial hardship. I left school early. And then, when my father went to prison, it was an extremely difficult time. My mother had an emotional breakdown; again I see this happening with our children today. When my father came home from prison, he became an alcoholic. It is the same old story, it is just fast forward. They sent him to Chelmsford hospital, that little shop of horrors at West Pennant Hills. They fried his brain and that was the end of his career, so I had been caring for my dad up until he died when he was 77. Financially and emotionally, I have been supporting our family. I see this reflected in these young children that I have had the pleasure and privilege to mentor today. I ask you to think of when your young children were about 10—little girls or boys going through this emotion of desolation. That is how I felt.

I felt alone in the world. If I did not have a mentor, I would have put a bullet through my head at 15. My mentor saved me, and I see the programs that SHINE is providing these young children today, doing exactly the same thing. We are reaching out to these wonderful young people. We do not want them to become a suicide statistic, like I could have been. This is a humanitarian problem. I have been reading about it, I have been working at it, and I have been puzzled for such a long time since I started working with SHINE for Kids.

The CHAIR: Mr van Someren, can I get you to perhaps focus particularly on your volunteer work, in relation to taking kids to and from prison, and what is involved in that?

Mr van SOMEREN: Absolutely, you can. My transportation, which started 12 years ago, really became a "mentoring on wheels" program through SHINE for Kids. As I said yesterday, we had a captive audience in the motorcar, and I would spend up to three hours with these young people. I would take the children to see their mum or their dad in prison. I would sit with them. I would listen to what the parent had to say, and I would see what the child's reaction was. We would discuss it on the way home, and then I would report back to SHINE as to what actually happened on that visit. There were two young men that I transported and mentored under SHINE's guidance for 10 years. The first one was an Indigenous boy, whose mum has just gone back in again for the fifth time. I have mentored a number of children for five years and less.

There have been some wonderful, wonderful results during that period of time, due to the support of SHINE for Kids. I will just cite two of them. One of them—I will call her Gabby—came from the western suburbs. Her mother was arrested when Gabby was 13. She had a sister who was 10 and a brother who was eight. They lived in a granny flat—it was a two-room flat—with their violent father, who had a drug and alcohol problem. Mother was sent to jail. We have a 13-year-old child just reflecting what I went through when I was a boy. Without the help of SHINE, that young lady would have fallen through the cracks, as would her brother and her sister. My friend on the end, Ms Plunkett, gave me and that family such great support, going to the school counsellors. We supported them with food. We supported them with finance. SHINE was not just a mentoring organisation; they were family to this family. This young lady became vice captain of her high school. We helped her get a hardship scholarship into Sydney University. She finishes medical science this year, and she will do a Masters next year. What a wonderful story. Another young man I transported through SHINE for 10 years. He is doing a double

degree at Sydney University this year. Through all the hardship and the trauma that those kids have gone through—the suffering—you can tell my reaction.

This is a humanitarian problem—a real problem—not taking any notice of recidivism and the public capital expenditure. What we have in front of us is an economic disaster, not only a social disaster. Academics from Sydney University and the University of New South Wales have been pleading for years the wisdom of social and economic reform when it comes to early intervention programs, because spending money in the way we have done over the years has not worked. I was shocked yesterday to hear some of what was said. We are talking about scraping up some money to fund early intervention programs. Funding should start first, and let the recidivism and the capital expenditure follow in its wake. It will become a social and economic success story if we do that.

The CHAIR: Thank you very much, Dennis, and thank you for all you do as a volunteer. We certainly acknowledge all the wonderful volunteers of SHINE. It is very powerful to hear from you in person. I might start, in relation to that, with the Ride By Your Side scheme. I understand that it is unfunded at the moment and that you have limited resources in that regard, in terms of the outreach from SHINE. I want to get your comments on the travel and accommodation assistance scheme, and whether there is any scope for that to be expanded, as well as your experience of the rollout of tablets and the complementary nature of that with the visits in person. How do we best facilitate that, from your perspective? It is a multifaceted question.

Ms LONG: I might first answer the transport component. Community Restorative Justice Centre [CRC] provides transport and accommodation support. I will leave them to comment about how efficient that is from their perspective, but I can tell you from our clients that the feedback we get is: it does not nearly go far enough. The distinction, between that support, and what we are talking about with Ride By Your Side, is that those are children who require supervision. They are not just families who are travelling and being reimbursed for that travel and accommodation. They are children who need us to ride by their side. As Dennis mentioned, it is mentoring on wheels. There is the mentoring component, but there is also a requirement for New South Wales correctional centres that children are supervised. You cannot visit a parent in custody, if you are under 18, without an adult supervising that contact. We also get relationship breakdowns, where I may not want to go in, but I acknowledge that it is important for my children. We need to supervise those contacts.

Of course, there are children in out-of-home care, where the carer who is looking after them may also not want to go inside the complex. That is where SHINE for Kids can supervise the contact. I would distinguish the CRC scheme from what we do, because it requires that element of supervision. We are only philanthropically funded in western Sydney. If you are talking about children in Kempsey, in Bathurst, in Wellington—all of the other areas—there is simply no support for transport. The Clarence Correctional Centre has no public transport in Grafton for those families. It is our biggest prison in New South Wales, where a third of women in custody are housed. We have a lot of children in western Sydney that we were supporting in our Ride By Your Side program, but now mum has been relocated to Grafton, and the children are in western Sydney.

In relation to your second question around tablets, SHINE for Kids has been advocating for digital support for a really long time. Suddenly, during the COVID pandemic, that was rolled out very quickly, and we applaud Corrective Services for doing that. However, I think there is a dangerous narrative at the moment around tablets and video visits replacing face-to-face contact. We know the majority of children with a parent in prison are aged birth to five. Those children need to physically touch, smell, and be with their parent. They cannot engage in video visits in the same way. The children we support are also twice as likely to have a chronic illness or disability. Those children also find it difficult to engage in online visits. We also think that everybody is tech savvy and that there is equality amongst the digital economy. We found, during COVID, that we had to rapidly introduce a loan scheme and get devices out to families, because a lot of families did not have the devices able to do it.

I also draw the Committee's attention to a survey we have done with Monash, ANU and Griffith. It is called Maintaining Family Contact. During that, we found 95 per cent of respondents reported negative consequences for children as a result of visitors being restricted. One carer told us, "My child is very distressed, it's affecting his learning, behaviour and emotional wellbeing." Another one told us:

Children are resilient, but they miss holding and talking to their father. The youngest one cries after a talk on Zoom - she wants to hold him. The older one wants to hug him and play games with him - affection is very important and has been hard for them to not have it.

Another told us, "My son will lose the bond with his father and will not know who he is." We have a lot of children who were born during COVID-19 on the outside, newborn babies who, until visits were recently resumed, were unable to meet their father. For those children in early childhood, it is critical that we have face-to-face contact. Of course there are benefits. Long-travelling families may opt to do the video visits, so we believe that it should be complementary. But overall we have seen a shorter amount of time on the visits—they are only half-an-hour

in length—and overall negative consequences from that survey, with families telling us that they want to see their parents face to face.

Mr DAVID SHOEBRIDGE: You operate in a number of other states. Is any other state doing it better, in terms of providing support to get kids who need it, and particularly need that supported transport to prisons? Is any other state doing it better?

Ms LONG: In terms of the transport, there are two states that do it better, from a government funding perspective. Corrections Victoria includes transport in SHINE for Kids' provision of services. As I mentioned, we do not get any state funding in New South Wales. It was previously part of our tender. What we have in Victoria is, we do in-visits, child-parent days, and transport. So, certainly, in Victoria, we are doing better. At the Alexander Maconochie Centre in the Australian Capital Territory [ACT], we are also funded for transport, so what we are able to do there is actually take in breastfeeding babies, so that mum can breastfeed. We are able to actually transport children to that complex, and there are not children falling through the cracks, in terms of transport. They are probably the two states that I would highlight where it is government funded. That is not the case in Queensland or New South Wales at this stage.

Mr DAVID SHOEBRIDGE: Corrective Services pushed back a little yesterday about the transport in particular, saying that they had done a cost-value assessment and found that they could not justify the cost for the transport. First of all, do you have any response to that?

Ms LONG: My first response would be that I would love to see the cost-benefit analysis made publicly available, or a discussion had with SHINE for Kids, so we could look at where the pain points were for them in terms of the financial benefits. In terms of the cost-benefit analysis, it is the same formula we use in Victoria and the ACT. I appreciate New South Wales has the highest incarceration rates, and a greater need, but the formula we use is also what state government uses for out-of-home care. It is no different to what is being used in other areas of government. I might get Mr Kew to add to that.

Mr KEW: I was just going to say, until yesterday, we had no feedback on why transport was not funded. So it was interesting to get that yesterday.

Mr DAVID SHOEBRIDGE: So, at a minimum, we should be asking Corrections to actually table or provide whatever analysis they had done, so as we can all see.

Mr KEW: Yes, and at the time, we could have had that discussion with them to say, "If this model is not working, what model can we develop that suits your budget and you think has got a return on investment?"

Ms LONG: And I think it is also about priorities. If we cannot service the whole state, let us look at the data, when most children are visiting a parent in prison, and let us service those complexes. So I think a conversation can be had, and we can try and meet the need.

Mr DAVID SHOEBRIDGE: Are you open to looking at different technology solutions, such as some kind of online booking, so that when you get critical mass, it maybe then becomes a more viable economic decision?

Mr KEW: Yes, definitely. Internally, we have had those discussions already, about how we can make it more financially viable. So, yes, definitely. The only other thing I would say about the existing transport is that it is a reimbursement scheme; the families we deal with cannot afford to outlay the money in the hope that they get reimbursed down the track.

Ms LONG: And it is also a model that relies on volunteers. The model we have put forward to government is still the model that Dennis has been doing for over 10 years; it just enables us to reimburse volunteers for their petrol costs. We are not presenting a fully paid staff model for service provision. So I would find it very hard to find a better cost-benefit model being put forward to government for that service provision, because it still relies on volunteers doing the transport, those 175 volunteers. We are just asking them to volunteer their time, not also their resources.

Mr DAVID SHOEBRIDGE: Dennis, you are paying for all the petrol, the depreciation costs and the running costs. You are literally doing the job of the state of New South Wales.

Mr van SOMEREN: I have been, that is true. Can I just respectfully ask—there is no fear or favour with me because I am not being paid; I am a volunteer: Cost-benefit ratios should be kept out of this discussion. We are talking about a humanitarian problem. Some of these kids are going to die, or they are going to go to prison themselves. We are talking about young children, the rights of young children. Why should we be talking about cost-benefit ratios, for God's sake? It is just not credible.

Mr DAVID SHOEBRIDGE: Those social costs, those real costs to the kids and their future, need to be on the table when you are making these decisions and, as you point out, if you put those real costs on the table how could you not fund it?

The CHAIR: Ms Harrison?

Ms JODIE HARRISON: Thank you for your submission, and for the time that you have spent with the Committee already, and for addressing the Committee today. I would just like to go back to the 1997 report. Has SHINE done any evaluation on the implementation of those recommendations and, if so, would SHINE be willing to share that with the Committee?

Ms LONG: Yes, absolutely. In terms of our recommendations, we have made 83, and the majority of those come from the 1997 report. So, there were 97 recommendations done. I do not think there has been a formal analysis done by this government, or anybody, around those implementations, which is what I attempted to do in our submission, to see the gaps that still remain. Sadly, the majority of them have not been fulfilled. So, again, we are making them to this Committee. My concern is, in another 20 years' time, will there be another group of SHINE staff and volunteers coming and asking for the same recommendations? That is why our recommendations look right at the point of arrest, when we are sentencing parents or primary caregivers. There are great examples in other jurisdictions that we can look to. The Bangkok Rules state that a primary caregiver should only be incarcerated as a measure of last resort, and that was particular to women, but in its preamble it was open to both men and women.

So I think the trouble we have is that this is an area that crosses over so many governments and areas of law, and we have not had a holistic approach. So the service provision, the response, has been ad hoc, and it has been largely left to the not-for-profit sector to try and fill these gaps, and that is why we have tried to provide recommendations to this Committee that start right at the point of sentencing—justice reinvestment, actually putting funds into stopping parents from ending up in custody in the first place—right through to reintegration. We currently do not have any support for parents reintegrating back into the family unit. We run our Belonging to Family program in Kempsey, we have our intensive family case management in western Sydney, but for every other area, as a parent, you are standing at the gate with a garbage bag with your belongings, re-entering your family after being away for a year, five years, seven years—things have changed, there is no engagement in your child's education. We talk about wanting parents to return from correctional centres and reintegrate back into the family unit, but what are we doing whilst they are in custody?

We talked about video visits. Why do we not do parent-teacher nights with parents in custody, via audio visual link, to keep them engaged in their child's education? What we tend to do, as a society, is keep them as an individual in custody and hope the rest of it sorts itself out, which is why we want to work with the whole family, and have that run. As I mentioned to the Committee, these are not radical ideas; they happen in other jurisdictions. In Ireland, there is a great program; it includes an evidence-based parenting program, as well as training for correctional officers. There needs to be a huge shift within Corrective Services around, "What are prisons?," in terms of places, and really supporting parents to reintegrate back out. So, yes, sadly a lot of those recommendations have not been achieved. There has been some really good work done, but we have seen alarming incarceration rates since that time, without an increase in the crime rate. So we are seeing more parents going into custody, which ultimately impacts the children.

Mr DAVID SHOEBRIDGE: The lowest historic crime rates for most of those classes of offending in the post-war period, and a record prison population.

Ms LONG: That is right. That is why we cannot actually talk about supporting children of prisoners without actually talking about reforming our bail laws, and reforming the criminal justice system, which results in more parents ending up in custody for non-violent offences—we are talking about property offences, we are talking about drug and alcohol. So it is a much bigger picture, and I appreciate the Committee is looking specifically at children of prisoners, but this requires a whole-of-system approach, and I think if we just look at children of prisoners we will risk what happened following 1997: the recommendations will not be implemented.

The CHAIR: Ms Preston?

Ms ROBYN PRESTON: Thank you for your contribution here, but in SHINE in particular. It is quite overwhelming to hear about the support that you offer. I want to pick up on a couple of points that you responded to in Mr Shoebidge's questioning. Firstly, in relation to Corrective Services in Victoria that support the transport for SHINE, is that a model that would work in New South Wales? Also, Mr Shoebidge talked about if there was an increase in response and needs, and doing an online program. I am just trying to work out how you would do that given you are relying on volunteers to be part of that whole process. Where, all of a sudden, do you get extra volunteers from that can provide perhaps the model that you are talking about that Dennis does—his own vehicle,

his own time, his own transport and fuel? First of all, when Dennis talked about transport—and I am sorry it is multiple, but I just want to flesh it all out—I thought you were looking for a bus, that you could bring several in at one time if it was a prison, but I am hearing that it is a one-on-one, almost like an uncle relationship with the child, so that might not work if you have got kids in a bus from several different families, with different emotional needs and supports. Can you work me through that?

Ms LONG: I might respond to the Corrective Services Victoria and I might get Susan, who runs our transport program, to talk a little bit about how that works, because there is still a paid staff member that coordinates it. To answer around the Corrective Services Victoria model, that is the same model we presented to the New South Wales government: so, it is no different, and it does rely on a paid staff member who coordinates a team of volunteers. I might get Susan to talk about that a little bit more, in terms of how it practically works and how we could do that in New South Wales.

Ms PLUNKETT: Definitely. The Ride By Your Side program occurs when we have a program coordinator. Their role is to recruit volunteers. We will create the advertisement, expressing what area we would like it in. They go through a thorough screening process, and training. Then they are matched with children—the particular interest, suburb. Then, once that match takes place, we ask for a commitment of 12 months. Then, once a month, our coordinator will plan, book the visit, and then provide a run sheet to our volunteer. Then they would pick up the child. It is all organised by SHINE.

Mr DAVID SHOEBRIDGE: As I understand it, part of the response you are asking from the state government is to not have the volunteers have to pay for all the fuel and all the transport, and have that part of the cost met by the state government. Then the volunteers provide the mentoring, basically, free of charge.

Ms LONG: That is right—the same with the vehicle. We have a lot of siblings. I mentioned that 45 per cent of parents have one child. We have some parents with five, six, seven children. So, we have put in a request for five new eight-seater vehicles, so that we can facilitate those multi-sibling family visits. In terms of the time that the volunteer is providing—it is that mentoring. The other associated costs are petrol and a meal, for the child on the transport, because we do not tend to build prisons right in the middle of town. It is quite a distance. Most of our transports have a minimum of two hours to the complex. Then there is the visit, and then the two hours back. It is a model that, we believe, is good value for money. As I said, it runs in other areas. We do not ever struggle to get volunteers. We have wonderful volunteers like Dennis—over 175—who have stayed really active with us during COVID-19, and give up their time, because they believe in what they are doing. They are retired lawyers, principals, right across the community, who understand the value of this work, and give us their time and expertise.

Mr PETER SIDGREAVES: Thank you for all the work that you do. It is nice to see you again. You have these wonderful programs that you do across the country, such as Ride By Your Side and RISE and others. What post-release programs do you run and would you like to run?

Ms LONG: Post-release is really important and, I think, deeply underfunded and under-resourced. I also think there are models where government has tried to do this work themselves, through Community Corrections. I think it is vital that it is done by not-for-profit organisations that have a relationship with parents and families, and a relationship of trust. We do run what we call a through-care model. That is where there is support in the prison that continues in the community. That is our Belonging To Family program, which Mr Kew mentioned. That is an Aboriginal-specific program we run with the Dughutti Elders group in Kempsey. It is very important that there is that continued relationship, which is built in custody or pre-release, and continues post-release.

We run our intensive family case management, which Ms Plunkett has been running. What distinguishes that from other post-release programs is that it works with the whole family. "What has resulted in this person ending up in custody? How can we work with the whole family?" It might be that the kids have some goals around attendance at school. It might be that some food relief is needed. Whatever the goals are for the family—we see a lot of housing needs—we are able to support that family. In answer to your question, of what we would like to see, it is holistic post-release support, working with the whole family, so that it is client-driven—the goals that they want to set and achieve. It is not us telling them what they need to do. It is identifying, as a family, "What do we need to do to be healthier and happier and have this person, loved one, remain in community?"

So, we would like to see Belonging To Family rolled out in other areas of high Aboriginal incarceration. We provided Cessnock, Wellington, Grafton, and Nowra as the areas of priority and, in terms of the intensive case management, South Coast, Goulburn, the Hunter, Grafton, and Wellington. I would again just like to say that the only state-funded intensive family case management program is in western Sydney. Outside of that, as I said, families are literally at the gate, and there is no support around how to reintegrate back into the family.

Mr PETER SIDGREAVES: You have said that it is funded only in western Sydney. How long has that been the case for?

Ms LONG: The current funding we have had is for the last three years. My understanding is that this has been quite a long-term funded program. Ms Plunkett, how long have you been at SHINE?

Ms PLUNKETT: Fourteen years.

Ms LONG: Fourteen years. It is something that is well funded, and is not at risk of funding. I guess our challenge is around extending it to other areas because, again, if you live outside those priority areas—it is place-based funding. "Sorry. SHINE can't help you." It is a lucky dip. If you happen to live in those LGAs, you get support. If you live outside those LGAs, you do not get any support.

The CHAIR: Can I just clarify: Is that funded by the Family and Community Services [FACS] component of Communities and Justice?

Ms LONG: That is correct.

The CHAIR: I suppose, just to reflect, you ran through a few different areas there. I think it is a sort of a golden thread through your submission, about how different parts of government are not talking to each other and a stovepipe mentality and, indeed, not taking a family-centred approach in relation to how they deal with inmates. Could you reflect on that and, perhaps, the three priorities that you see, where government can actually get its act together and make a difference?

Ms LONG: I might ask if anyone else on the panel wants to reflect, and I will provide my reflections.

Mr KEW: I think you are spot-on. Our focus is on the family as a whole, and how that relationship is supported and developed. I think the three key areas are Corrections, FACS, and Education, actually. I think, if we could get those three groups together, we could start to work on programs that supported the whole family and had a return on that investment, much better than it is at the moment.

Ms LONG: I would definitely endorse what Mr Kew said, in terms of Education. I also think parental incarceration is a health issue. Kristin Turney's research in the United States shows that parental incarceration is independently associated with learning difficulties, developmental delays. We have also shared with the Committee some of that research. So I think the merging of FACS with Corrections is a great start, in terms of this being one government portfolio. But if there is no coordinated working, if there are no set targets, if we are not measuring what we are doing and actually facilitating a whole-of-government approach, then a name change in and of its own is not going to get outcomes for children of prisoners.

So what we would like to see is some clear targets and coordinated working across government, across Education, across Corrections and Community Services, because at the moment, it is very siloed. We know that a whole-of-family approach gets outcomes, from the United Kingdom. We are really 10 years behind this work. I think there is a real opportunity to create a plan. There is no-one in New South Wales' government that is accountable for children with a parent in prison. There are no targets. If we are not measuring something, then we are simply not making progress. If no-one is accountable, then we are not getting change, and we are not getting outcomes for children.

Mr DAVID SHOEBRIDGE: The current system is that Corrections is responsible for the parents when they are in jail, Education is responsible for the kids when they are in school, and FACS may have some responsibility, if the kid goes off the rails in between times. And nobody is putting that together. Is that right?

Ms LONG: And you have got the extra overlay of Juvenile Justice in that mix. Juvenile Justice is very separate from Corrections. We have a disproportionate number of our children who then end up in the Juvenile Justice system. SHINE runs a Stand As One mentoring program at Frank Baxter. I believe this Committee has a submission in front of you that looks at the amount of children who actually are parents, in the Juvenile Justice system. There is also that extra layer. Yes, there is no coordinated working across those departments.

Mr DAVID SHOEBRIDGE: When I say "FACS", I mean that part of Department of Communities and Justice [DCJ] that once was FACS.

Ms LONG: Yes.

Mr DAVID SHOEBRIDGE: This brings us back to those deeper structural reforms that have been recommended in report after report. We could go to the Tune report, or we could go to the *Family is Culture* report. They have both said, in one form or another, that we basically need a commission—some kind of statutory body—to have responsibility to pull those different elements together and be able to redirect funding where it is

needed. It may be outside the scope of this inquiry, but do you have a view about that need for a fundamental change and a statutory body to direct resources and work across agencies?

Ms LONG: I think a structural reform, such as you are mentioning, would ensure that we are able to get greater outcomes. Otherwise, we are just making recommendations to an overall system that does not work, and is not coordinated. I would support that recommendation.

Mr DAVID SHOEBRIDGE: Do you want to take that on notice and have a look at those two recommendations from the Tune report and *Family is Culture* report—specifically those two recommendations, in one form or another, about a family commission?

Ms LONG: Yes, I think that is something we can take on notice, have a deeper look at and come back. But I think my initial response is that, if we are not making structural changes, then, again, we may be having SHINE staff here 20 years later, looking at the same issues. But in relation to that specific structural change, we will take that on notice and have a look. There has been research done on that proposal.

Mr DAVID SHOEBRIDGE: Indeed. My final question—the final question I think I am going to have time for, given the tolerance of my colleagues—is about the new Clarence Correctional Centre. It is 20 km out of town. Are you saying that there is no public transport? How on earth then does anyone visit?

Ms LONG: All through private means, at this stage. There is no public transport currently available. Obviously, with COVID-19, there were no face-to-face visits for over 12 months, so, arguably, that delayed transport being put in place. Obviously, we are looking at our Ride By Your Side Program as something that we can run. But yes, to answer your question, at the moment there is nothing in place.

Mr DAVID SHOEBRIDGE: A third of the women inmates in New South Wales jails are in a prison that is 20 kays away from the nearest town, with no public transport?

Ms LONG: Just to clarify, there is a third of the capacity of the state. Not all women have been transferred. That is a question for Corrective Services. "How many of the women currently in prison have been relocated to the Clarence Correctional Centre?" We have asked the question, and I think it is one for the Committee to ask, to get that answer. But, certainly, in terms of beds and capacity, it is a third of the capacity. The plan is that that complex will be at capacity.

Ms ROBYN PRESTON: You talked about the disconnect with different state government departments not talking to each other, and you recommended there should be a national approach, if different departments are not talking to each other within the state, and Victoria is doing it a particular way, and the ACT—how then do you see it coming as a national approach?

Ms LONG: Again, that is a really good question. What I find is that SHINE is the conduit—and we are a not-for-profit organisation. I will have conversations with the head of women offending in New South Wales and I will say, "Have you spoken to this person in Queensland?" They do not know each other. There is not any coordinated working. There are different things that are done better in different states. For example, in every women's prison in Queensland there is a mums and bubs unit, and we run an evidence-based parenting program and a playgroup in all of those women's prisons. In New South Wales, we only have Jacaranda, which I believe this Committee has visited. When the floods happened, and those women had to be evacuated, there was nowhere for them to go, for their children to remain with them.

I guess, in terms of how it would work, there should be some coordination from government. SHINE for Kids would like to help develop a national strategy, and it must include the voices of families and people with lived experience. I think there actually has to be coordinated conversations first, and then actually developing a plan, of how that would work in practice—because, otherwise, we are talking about theory—and taking what works in each jurisdiction—not just in Australia, but internationally; "where do we have research and evidence-informed results?"—and sharing that in a coordinated way.

But, yes, I agree, if we cannot get it right in New South Wales and then we are going to a national approach—but what we would like to see is that best practice is actually being shared, that results are being acknowledged, and then we can start to encourage work. There is an organisation called Second Chances in South Australia, and SHINE has just launched into Western Australia, but there is nothing in other states. Yes, we would like to see the Premier take leadership. We have talked about having a fund developed for stopping intergenerational offending. That is something that we think New South Wales, given we incarcerate the most people in the country, should take leadership on.

Ms ROBYN PRESTON: I just wanted to pick up on a few things you said, looking at that national approach. What about if you have got incarcerated parents with their children in other states? How do you connect with those families? How do you keep them connected? How do you deal with that?

Ms LONG: Again, we have had transports that we have done. We have got children in other countries, as well—that is another thing to acknowledge. It is all done with the funding that we have. Again, there is no coordinated approach in terms of the states. We have had children in other areas, particularly when there is kinship placement and the carer lives in another state, and parents who have been incarcerated in multiple states. We can only do what we can do.

Ms ROBYN PRESTON: It gets a little bit more complicated, though, does it not?

Ms LONG: Yes, it does. Mr Kew, did you want to add to that?

Mr KEW: I was just going to say that it depends. If it is a state where we have got services, then we can refer. I know I have taken children from New South Wales down to the Alexander Maconochie Centre in Canberra as well, so we do that. But it depends on which prisons we are in.

The CHAIR: One final question, in relation to child protection officers: very briefly, your reflections on those being provided in women's prisons, and whether you think they should be provided also in men's prisons across the state.

Ms LONG: I think it comes down to training. Just moving a service closer can actually be moving a problem closer, if we do not provide the right training and support. Probably over two years ago now, Mr Kew and I wrote to every out-of-home care provider in the state, and offered to run our accredited teacher training around the impacts of incarceration on students with those out-of-home care providers, so they could understand about the work that we do at SHINE, and the impact of parental incarceration. We get a lot of requests from FACS workers. Also, with out-of-home care, largely, the majority go to NGO providers now. Caseworkers contact us saying, "We do not think it is in a child's best interests that they visit their parent in prison." We then have to provide training and support, around why it is in the child's best interest, and when it is not. Obviously, if there are any orders, or the child has been a victim of a crime, we do not facilitate contact. I think just moving caseworkers closer to the prison is one step; ensuring they have the right training and support is the next step. I think, provided that they were provided the right training and support, it could be a positive step.

But when you look at the intergenerational effects of out-of-home care, many of the women in custody have had out-of-home care experiences, so there is a level of distrust there. If you are moving those people closer to the prisons without providing the appropriate training, that level of distrust is still there. "Is it support or is it surveillance?" These are the kinds of questions that we hear from women in custody. "Is this somebody here to help facilitate me having contact with my children, and getting care and orders restored, or is this someone here who is going to be judging me and watching me every time I have a visit, and making reports?" I come back to surveillance versus support, and ensuring there is the right training. I think this was implemented just before COVID, so we would be really keen to see an evaluation of that change and, also, an evaluation that includes the voices of women with lived experience. Whether they believe this is helping facilitate them maintaining custody of their children and reconnecting with their kids, I think, is key. I would open that up to other witnesses to comment.

The CHAIR: Very quickly.

Mr KEW: I would just say it depends on the relationship and the individual—and trust.

Ms LONG: But we do see a lot of dads who do not know where their children are in the system, so some coordinated working would be really good. I know that, in Queensland, Child Safety is a free phone call from the prison, for men and women to be able to call and get access, and understand what is happening, in terms of family law proceedings and things like that. So I think there are some other things that we could look at, to facilitate that.

Mr DAVID SHOEBRIDGE: We can add that to the list of free calls.

The CHAIR: Yes, we could. On that note, thank you again so much for appearing today, and for all of your assistance to the Committee. It has been sensational, and we appreciate that immensely. We probably will have some more questions for you—there are lots of nods around the table. If you are happy to take some further questions, I was wondering whether 14 days might be sufficient, or do you need 21 days in order to get a response together?

Mr DAVID SHOEBRIDGE: Ask for 21.

The CHAIR: We will give you 21. I figure we are going to have a few more questions for you.

Ms LONG: We are happy to take those.

The CHAIR: We will send those through to you fairly quickly, and we will give you 21 days to come back. Thank you again for appearing here today.

(The witnesses withdrew.)

ELIZABETH WATT, Research and Policy Manager, Yfoundations, affirmed and examined

PAM BARKER, CEO, Yfoundations, affirmed and examined

The CHAIR: Thank you both very much for coming today. Would you like to make a brief opening statement before we go to questions?

Ms BARKER: Definitely, thank you. I would like to acknowledge that we are meeting on the lands of the Gadigal people of the Eora nation, and pay my respects to Elders past, present and emerging, and those in the room today. I would also like to thank the Committee for inviting us to appear at the inquiry. As I have introduced myself before, I am Pam Barker. I am the CEO of Yfoundations. I have Dr Elizabeth Watt with me today, who is our manager of policy and research. Yfoundations is the New South Wales peak body for youth homelessness, and we have been doing what we have been doing for about 40 years. We represent children and young people who are currently homeless or at risk of homelessness, and the services that support them, throughout New South Wales.

Early last year, members of our previous Yfoundations policy and projects team made the submission to the inquiry into the support for children of imprisoned parents in New South Wales. Our submission highlighted some significant issues, including the adverse long-term effects on children, such as economic hardship, increase in school dropout rates, drug and alcohol usage, offending behaviour, and mental ill health; the particular impact that incarceration has on Aboriginal families; and the importance of maintaining child-parent contact, for both the child and the parent. We made a number of recommendations, including more child-friendly arrest protocols; and increased support for maintaining parent-child contact, including through mother-child prison facilities.

There are some amazing organisations that are appearing here today, such as SHINE for Kids, who you have just heard from; the Community Restorative Centre; and various legal centres, who are best placed to expand on and answer questions about these specific services and processes. Yfoundations would like the opportunity today to expand upon our submission, drawing attention to how parental incarceration relates to the issue of adolescent homelessness in New South Wales. What we know is that almost 9,500 12- to 17-year-olds turned up to specialist homelessness services in New South Wales in 2019 and 2020. Sixty per cent of these young people turned up without a parent or guardian. Our consultations with youth homelessness services suggest that parental incarceration does play a huge piece in young people being homeless, but the issue with this is there is not a lot of data to support our claim.

The data at the moment, about the wellbeing of children whose parents are incarcerated, is not routinely collected in New South Wales. However, the link between parental imprisonment and youth homelessness is supported by international research. For example, one US study found that nearly a third of children and young people living in refuges had a parent who had been incarcerated. In a 2013 study completed by SHINE for Kids and the Institute of Child Protection Studies in the Australian Capital Territory [ACT], young people spoke about the housing instability they suffered after their parents were imprisoned. They spoke of couch surfing and living with friends and partners, and moving between youth refuges. Sometimes parental imprisonment was the direct cause of their homelessness, and sometimes it was a contributing factor.

For example, the Victorian organisation VACRO reports that carers often suffer socially and economically when they take in a relative whose parents have been imprisoned. This can create tension and increase the likelihood of abuse, neglect, violence and conflict. Family conflict and violence are the key reasons that young people flee or are kicked out of their homes. Young people in the 2013 ACT study consistently reported that housing instability dramatically increased their emotional instability. To quote one 16-year-old from the study, "I just want my own place so, if anything happens, I'm not the one that has to leave." Young people whose parents have been incarcerated are already at a high risk of experiencing a range of negative outcomes. This includes behavioural problems, offending, mental ill-health, developmental delays, and alcohol and drug addiction. Experience of homelessness has been found to exacerbate all of these issues.

While our youth specialist homelessness system does their best to support the high needs of these young people, they are overstretched and under-resourced. They simply do not receive the funding required to provide 24/7 therapeutic care that these traumatised young people often need. The child protection system is mandated to step in in such circumstances. However, we know, from the NSW Ombudsman's *More than Shelter* report, they often do not. Overburdened child protection workers often prioritise younger children, and assume that adolescents living in a refuge are safe. Many of these workers are not adequately trained to deal with the difficult behaviours these traumatised young teenagers demonstrate. But, more often than not, they simply do not have the appropriate placement options for them.

If traumatised homeless young people have a safe home to go to, we need more extensive evidence-based family therapy programs to support reunification. Relatives and friends who take in children whose parents are incarcerated need our support. For those young people who do not have a home to go to, we need more medium-term supported accommodation, therapeutic foster care and residential care placements, and specialised services like youth drug rehabilitation programs. We also need supported housing models, like youth foyers, that help vulnerable young people make the often difficult transition to adulthood.

Young people in the out-of-home care and specialist homelessness system, including those whose parents are incarcerated, are often expected to automatically become adults at 18. We make these recommendations based on what we know about traumatised homeless young people in general, but, to properly address specific needs of young people whose parents are incarcerated, we need to better understand the link between parental incarceration, child protection, and the youth homelessness system. Yfoundations therefore strongly recommends that further research and improved data collection be made a priority.

The CHAIR: Dr Watt, did you want to add anything?

Dr WATT: No, that is on behalf of the organisation.

The CHAIR: Thank you for your submission. I might start with the area you wanted to focus on, and that is what happens when a parent is arrested and the impact of incarceration of that parent on their child. In particular, your understanding of the referral to your organisation, how that comes about, what is done, what protocols exist at the moment—what do you think needs to change in order to see that that child does not fall into the gap, so to speak?

Dr WATT: We are not a service provider, so they do not make direct referrals to us, as a peak body. They would make referrals, obviously, to the specialist homelessness services that we represent. From our experience, it will really depend on the complexity of the young person's needs. We know that, from the recent evaluation of the Homeless Youth Assistance Program, which is targeted at young people aged 12 to 15, that more than 50 per cent of the young people who are coming into these homelessness services, at that age, have a child protection history. So even though the service is focused on primarily family reunification and family therapy, a lot of the homes that these people are returning to are not functioning to the extent that it is a safe place for a young person to return to.

The HYAP (Homelessness Youth Accommodation Program) services, basically, are not funded enough to do the intensive family therapy that these families would need, if the young person was to successfully return home. The kind of services that have worked with this cohort—like multisystemic therapy and functional family therapy—are all reserved for children who are within the out-of-home care system. They currently are not available to children in the Specialist Homelessness Services [SHS], but I think they are looking at new referral pathways through DCJ. Regardless of the referral pathways, they are still quite small and specialised programs that are not available across the state.

The ideal is that they are supposed to stay only for three months while they are working to return home, or to find a long-term placement. We know that a lot of young people are overstaying because, basically, within that time frame, they do not have the requirements to find a safe placement for the young person. I suppose if that was the first port of call, if the young person was not in the child protection system already, but if they had parents who are incarcerated and who are presenting to SHS services as a result, we know that there is a massive gap. Also, as was mentioned in the SHINE for Kids presentation earlier, there are real issues with the communication between the service providers, and the child protection system, obviously, is just unwilling. Often it is difficult to get them to pick up the slack in these circumstances. Often the risk profile is downgraded, because a young person is considered to be in contact with the service, so their risk profile is downgraded, and they are often left to—quite late in the—

The CHAIR: So they are deemed to be in contact with the service, but they are really not being provided a service. Is that what you are saying?

Dr WATT: They might be provided a service, but it is supposed to be a time-limited emergency crisis service. They are often downgraded as a risk, despite the fact that they are still homeless, and they are living in crisis accommodation. Those services are not equipped to deal with the complex therapeutic needs of the young person.

The CHAIR: Regarding the initial arrest of the parent, are you aware of the protocols that exist in relation to referral by the police in the first instance, if they are aware of a child being at risk, and how does that then move through to organisations you represent in terms of dealing with that crisis issue for homelessness?

Dr WATT: The submission was written by our previous team, who did actually speak to some police officers. As far as I know, they mentioned that, on a ground level, the police officers were not aware of what processes they should follow. Obviously, there is an education piece there. I would have to take it on notice.

The CHAIR: By all means.

Dr WATT: As far as I understand, and this is a qualified response, I think there is a process, that they are supposed to contact DCJ if it is a circumstance. This is something that would need to be looked into, but if the child is in an older age bracket, it might be quite a different circumstance. I think it is quite clear-cut that you contact DCJ if a child is a four-year-old, but if you have got a 17-year-old, often the responses of service providers assumes that these young people can self-protect, despite what we know. If you look at the cohort of young people who are known to DCJ, it is true that the youngest are the most vulnerable, but then it goes right back up again when you get to 16 and 17, if you look at annual child death reports. Those older teens are a very vulnerable cohort and, currently, it is just being assumed that they can self-protect. I do not think we have the answer, but it would be worth looking into what the police protocol is with that age group.

Ms BARKER: And if it was effectively being applied across the NSW Police Force at arrest, because we did find—

The CHAIR: Take that on notice. Are you happy to do that?

Ms BARKER: Yes, we are happy to take that on—

Mr DAVID SHOEBRIDGE: Definitely, the anecdotal reporting coming to you is that it is not being applied?

Ms BARKER: No. It is inconsistent. Different regions had different answers to our question when we broached them with that request.

Ms ROBYN PRESTON: Just picking up on that point. Are there other ways that youth find out about the services that Yfoundations provide?

Ms BARKER: Yes. We have up to 53-plus youth services across New South Wales that provide specialist homelessness response, either in some type of wraparound support, or providing shelter and immediate housing. Sorry, can you ask the question again? I just lost my train of thought.

Ms ROBYN PRESTON: How does a young person find out about you guys if the police are not giving direct referrals? What are the other plug-in ways that they can know about you? Is it word-of-mouth on the streets, or do you canvass and find homeless young people and bring them under your wing? How does that work?

Ms BARKER: Good question. There are almost 250 youth homelessness services. We have got a portion of that as our members, and they are all over New South Wales. They do a range of different services. They might have Youth Off The Streets, who does the assertive route—outreach throughout the city that picks up young people who are seen sleeping rough or out and about on the streets. Then you have got those services that work closely with families when they come forward, and you have got those services that receive referrals from DCJ, saying that, "We have a young person at risk; we need your support and intervention." What actually happens, if it works quite well—

Ms ROBYN PRESTON: If it works.

Ms BARKER: If it works, is that if a young person is at the home at the time of the arrest, and the parent is arrested, what we would hope would occur is that the police officers that are present at the time—

Ms ROBYN PRESTON: Is that a referral then to you guys to plug in?

Ms BARKER: Yes. A referral, or DCJ would refer immediately, and that young person would be seen as at risk in that moment, because who is going to look after them? They are under 18. Then, what supports do we put in place to immediately meet the needs of the child, which then will allow us to put those other supports in place to continue family contact, restoration and, hopefully, bring that family back together at a later point? What we know that does not happen is that connection across—as was noted in the previous presentation—services and the government do not talk very well, or the police force do not talk very well so, therefore, we have young people who vote with their feet.

When you are young and you witness such an intense event, you may have witnessed some criminality going on in the home—probably some low socio-economic issues are happening, and other stuff that comes with that—that young person is most likely going to take off themselves, because they are scared, frightened, and unsupported, or they may be residing with a family where conflict occurs, because support does not exist. Then that young person will sometimes show up with a backpack at our service's door, or they get picked up by the

police and start that circulation, where services may come into contact, but then it is too late. We initially have to support young people at the beginning of parents getting themselves into some strife or in trouble with the law.

Ms ROBYN PRESTON: That is at the pointy end, but there is a clock ticking in relation to the amount of support that you can offer. Can you talk a little bit more about that?

Ms BARKER: It is a variety. You have got so many services there, like SHINE for Kids, that have a variety of responses. So everything, as I said, from the prevention, through schools, through things like Community Outreach Services [COS] models that go in. You have got Yes Unlimited down south that will work closely with schools and communities of practice, to pick up children at risk, to try to make sure that homelessness does not eventuate as a result of stuff happening in the family home. And then you have those more at the pointy end, where you have Youth Off The Streets driving around and the City of Sydney, picking up young people, making sure they are okay.

So, the support is available from one end to the other, but the issue is that there are not enough resources. That is something we work a lot on in our sector—promoting for more resources and innovative models like medium-term housing, the foyer models, and supported housing, so that when young people are picked up at that pointy end, or that pre-intervention is not working, we can take that young person on a pathway out of homelessness, because sometimes parents are incarcerated for a long period of time, sometimes for a short period of time, and sometimes parents just do not have the capacity because of their current situation to support their child when they return back from being incarcerated. So, we need to equip that young person for adulthood quite quickly, when it is age appropriate, especially when we are not getting a DCJ response for a child protection order for the child, because only a small amount get supported through a Risk of Significant Harm [ROSH] report, and that system itself is overburdened.

The CHAIR: Don't we know it.

Mr DAVID SHOEBRIDGE: Thank you for your work, your submission and your attendance. Can I ask you about your recommendation about changes to the sentencing Act? The Commonwealth sentencing regime has a provision that looks effectively at any hardship caused to the family, and to kids, when a sentence is being passed, but section 21A of the sentencing Act in New South Wales does not. Could you take us through that?

Dr WATT: We might actually take that question on notice because, as I mentioned, the submission was written by a previous research team, and we are not specialists in this area. It might be that some of the legal services who are speaking later in the day will be better to speak about that. But we are happy to provide a written response, if you would like.

Mr DAVID SHOEBRIDGE: Can I ask you then, as a question of principle, before a judge puts a mum or a dad in jail, or another caregiver in jail who has responsibility as parents, do you think the judge should have to turn their mind to what impact that will have on any dependent children?

Dr WATT: Yes, absolutely. I mean, we stand by the recommendation. It is more that we recognise that we are not the specialists in this area.

Mr DAVID SHOEBRIDGE: In fact, if you came to it fresh, and you realised that that was not something a judge should consider—

Dr WATT: Yes, I think it was quite a surprise reading the submission, because I had not written it and I was surprised that that was not already a consideration.

Mr DAVID SHOEBRIDGE: If you want to address harm, and the harm of kids being these, if you like, innocent victims of the criminal justice system, the best way of doing it is to prevent as many parents as possible going to jail in the first place, is it not?

Dr WATT: Absolutely, and also to break that intergenerational cycle, with their own young people entering detention themselves, which we know the stat that has come up quite a bit, the international one: young people whose parents are incarcerated are six times more likely to enter detention themselves. We know from our research, with our forthcoming report about young people leaving youth justice centres and into homelessness—or homelessness causing the incarceration of our people—that homelessness also plays a big role in that intergenerational cycle.

Mr DAVID SHOEBRIDGE: If your parent goes into jail—perhaps the only parent looking after you—you lose the family home, you lose all that connection. That is a key driver of homelessness, is it not?

Dr WATT: Absolutely, and even if you are not living with that parent, what we know, from the way that caseworkers in the child protection and youth justice system will work, is that if they have a homeless young

person—or, the person themselves, by their own choice—will go through what family options they have available to them that are a safe and secure place. The more family members you have in prison, the less options you have available. It is pretty straightforward.

Ms JODIE HARRISON: I was actually going to ask the same kind of question as Mr Shoebridge. If in your response you have any information on recidivism as well—

Dr WATT: Amongst the parents?

Ms JODIE HARRISON: Yes, which is slightly out of the scope, I suppose.

Dr WATT: Yes. I know that the stat we had in the submission was that prisoners who receive visits from family members had 39 per cent lower recidivism rates than those who did not. Obviously, you would have to look at cause or correlation there, but I think that you can assume that maintaining those family connections while you are incarcerated would mean—we know that for adult homelessness, there is a piece about integrating back into society and reconnecting with your family, having stable housing, having stable both emotional and physical lives, has huge impacts on recidivism. I can only go, based on that, to assume that maintaining those connections with family—for both the young person and their parents—would play a huge role.

Ms JODIE HARRISON: You spoke about youth foyers. What are they?

Ms BARKER: A youth foyer is a facility that is purpose built and designed for young people, in a safe atmosphere. There is one currently, that has just been opened in Chippendale, which is for children leaving out-of-home care. It is designed to create a bridge between leaving care and adulthood, where you live in self-contained apartments in a very large internalised building, with holistic support available 24/7—so you have social workers, youth workers, and you might have visiting doctors or nurses. The young people there are screened, and the whole idea is that a young person either has education they are pursuing, a trade, or is working in a traineeship-style job. Foyers can be both education first or employment first, or a mixture. They are designed to help parent a child from the transition of being a young person into an adult.

If you have children here, some of your children may still be at home under the age of 30. Children in out-of-home care do not necessarily get access to those types of relationships into adulthood, and young people who are trying to manage on their own, also, do not get a chance to have those types of relationships to exit out of childhood into adulthood. The whole program is designed to support young people to be successful adults, and go on to have careers and a great education. There are officially about four in Australia—maybe five now.

Dr WATT: I think there are more in Victoria. Victoria has embraced the youth foyer model a bit more than New South Wales. The one that has opened in Chippendale, which I highly recommend you go and check out, because it is an amazing facility, is our second, I think. There is only one down in the Illawarra.

Ms BARKER: And there are a few similar models.

Dr WATT: But if you are interested in it, the organisation, the Foyer Foundation, does accreditation and promotion of the foyer model, which is from a European model, and there is a lot of research.

Mr DAVID SHOEBRIDGE: Victoria is probably ahead of us in that, because it has extended its care provisions.

Dr WATT: I think that the foyers probably even preceded that. The foyer model does not assume that you still have to be in care. It can complement extending care for those young people who decide to leave the placement, having another option to go to. In New South Wales, the new model is connected to out-of-home care, but the general model is just for vulnerable young people, as a group.

Ms BARKER: It would be a great solution for young people whose parents have been incarcerated. They are at the older end of the spectrum and they can be supported, in a family-like environment with other young people, to build community and pursue education and training.

The CHAIR: We might just turn to the younger end. You make some recommendations about the Mothers and Children Program in New South Wales. We have been out to see the Jacaranda Cottages, and it is quite impressive what they are doing there, but it is fairly limiting in terms of numbers. Obviously, you are recommending we look to expand that to other locations. Are you suggesting all female prisons or larger female prisons, or, indeed, that male prisons are appropriate as well?

Dr WATT: I think that we would support all female prisons having the option of a mothers and babies program. While focus is more on the 12 to 25 age range, we know that that period, when it comes to parent-child attachment, is incredibly important. If we want to set these young people up on a positive trajectory, then I think that removing them from their mother at an early age is not ideal.

Ms BARKER: Especially when there is no risk to the child's wellbeing or welfare, I think mother and child should be kept together to decrease the risk of reoffending through the family, intergenerational poverty, and homelessness. I think that is vital.

Dr WATT: And we know—I think it is mentioned in our submission—that some 85 per cent of the women who end up incarcerated in New South Wales have suffered some kind of abuse, and it is quite likely that they and their child need some intensive therapies. We know, at that early stage of life, there are a lot of very good programs, like Circle of Security or SafeCare parenting programs, that can really change the trajectory. Being able to offer those programs directly to young mothers with young babies through detention centres, I think, would be ideal.

The CHAIR: I suppose the choice in those circumstances is often between out-of-home care for young children or being with their mother—or, potentially, their father, if appropriate, because that depends on the circumstances, naturally. In relation to that, at the moment we have the policy that children only up to the age of preschool can stay with their parents at the Jacaranda Cottages. Do you see any scope for any change to that, in terms of kids who are older, to able to be looked after by their only carer?

Dr WATT: I think that we need to obviously consider the evaluations of the programs, which I am sure do exist. Again, this is not our area of expertise. I do think that having the separation at the age of five, if it is a hard cut-off, would be quite a traumatising experience for a young person, and I think that any of these models need to take into account what we know about child development, and what is in the best interests of these children, in terms of preventing long-term negative trajectories.

The CHAIR: I think, at the moment, it sort of ends at that stage and then the children are allowed back for holidays and the like. So it is sort of a separation that occurs, I think, as a practical result of being able to put—well, the education of the child at a school and things of those nature. Those sort of things intervene, but that would mean, in those circumstances, severing the relationship.

Dr WATT: Absolutely. We know from the research into the out-of-home care system that, even though young people who are taken away from their families often end up being safer in terms of their immediate outcomes, their long-term outcomes, really, are not any better than children who remain at home with families at risk. The psychologist assessing that would assume that the factor of being removed from your parents, and the trauma that that causes, means that, even if you are getting better access to services and, perhaps, are in a safer environment when you have been removed from your parents, all of that has to weigh against the fact that you have had this very adverse early experience of having those family connections severed.

The CHAIR: Any further questions?

Mr PETER SIDGREAVES: Thank you for your attendance today and everything that you do. My question is: of all the recommendations you have made, what recommendation do you think could make the most positive effect for children and young people of imprisoned parents?

Dr WATT: I think that is tricky. I mean, there are a lot of recommendations in here that I think are extremely important. The other organisations who are coming and presenting will speak to more in terms of the benefit they will have. Also, they are the ones who are delivering those kind of programs—like SHINE for Kids. This would be a bit more from our perspective, as in what our organisational focus is, and I do not think that this is to say that this is the most important thing in the broad scale of things.

We are working at that stage of 12- to 18-year-olds, who are often experiencing a range of adverse outcomes including homelessness, parental incarceration, and experiences in detention, and are presenting with a range of complex needs that currently are not being met at all by the New South Wales service system, because they are either being served in Specialist Homelessness Services, who can provide accommodation sometimes in the short term but cannot provide the therapeutic care; or they need to go into the out-of-home care system, which currently does have some placements, and is moving in the right direction.

I think we now have 50 treatment foster care placements in the state, or approximately around that many, which will provide individualised one-on-one care for a young person with complex needs, by a trained carer. These models have been trialled in Scandinavia and the US, and have been shown to have massively reduced recidivism amongst that group, and improve their mental and behavioural problems. Again, that is an area where Victoria is a bit ahead of us. New South Wales is getting there, but we have had some positive developments with the Treatment Foster Care Oregon models, the Professional Individualised Care. But I think that those kind of therapeutic placements for young people who cannot live at home, because either they do not have a home to go to or, as is often the case, their parents are not equipped to meet their needs—they simply are not able to offer the therapeutic care themselves.

So I think for us, if we are looking at this issue, it is about providing greater support for those teenagers who are currently bouncing between various different service providers, and transitioning to adulthood in a way that is far from ideal, if we can. In five years' time, these will be the people who are the incarcerated parents of children. Even though we talk about early intervention, we often think about babies—and, obviously, that is an incredibly important area of providing services. We also need to think about setting up these young people to become parents themselves, and not to enter the system themselves.

Mr DAVID SHOEBRIDGE: Going back to the foyer model, does it have government support in Victoria? Because it seems to be entirely charitable in New South Wales, in terms of funding streams.

Dr WATT: That is a good question.

Ms BARKER: The New South Wales government does fund the foyer in New South Wales. They fund the one at Chippendale that is for out-of-home care.

Dr WATT: It is through one of those grants—the social improvement bonds provided by Premier and Cabinet, I think, is what funds the foyer in New South Wales.

Ms BARKER: Yes.

Mr DAVID SHOEBRIDGE: Can you give us any detail you have about how it is funded?

Ms BARKER: Yes.

Mr DAVID SHOEBRIDGE: I assume you think it would be a useful project to expand.

Dr WATT: Absolutely.

Mr DAVID SHOEBRIDGE: It seems to me something that would be extremely useful in some of the bigger regional centres as well—

Ms BARKER: Incredibly.

Mr DAVID SHOEBRIDGE: —where it is so often hard to pull that support together.

Dr WATT: Yes. We can provide you more information about the new foyer model because it has quite an innovative structure. It has got Social Ventures Australia, St George Community Housing, Anglicare, and I think they all—this, again, I would 100 per cent need to clarify—put in for the bond to fund the project.

Ms BARKER: We can take it on notice and provide you a one-pager—

Dr WATT: Yes—more details.

Ms BARKER: —and links to current services who are also running it outside of the Chippendale foyer as well.

Dr WATT: And also an overview of what is happening in Victoria as well.

Mr DAVID SHOEBRIDGE: That would be great.

Dr WATT: The Foyer Foundation, I am sure, would be absolutely more than happy to provide information to the Committee.

The CHAIR: Terrific. If there are no further questions—Jodie?

Ms JODIE HARRISON: Do you have any familiarity with the 1997 report that the Legislative Council made into support for children with incarcerated parents at all?

Dr WATT: No.

Ms JODIE HARRISON: Okay. That is all right.

Ms BARKER: Sorry. I do not think we went back that far. Research tends to go back 10 years, because things change so much.

Ms JODIE HARRISON: That is fine.

The CHAIR: Thank you again for your submission and for appearing today. There are a few questions on notice and there might be a few more that the Committee might wish to send you. Would you be happy to respond to those within, say, 21 days?

Dr WATT: Absolutely.

Ms BARKER: Yes.

The CHAIR: Terrific. Well, that is fantastic. Thank you again, and we wish you very well in all you do.

Dr WATT: Thank you.

Ms BARKER: Thank you. Good luck.

(The witnesses withdrew.)

(Short adjournment)

HELEN EASON, Member, Keeping Women Out of Prison Coalition, sworn and examined

ELENI PSILLAKIS, Member, Keeping Women Out of Prison Coalition, sworn and examined

JANET DONALD, Member, Keeping Women Out of Prison Coalition, sworn and examined

The CHAIR: Ladies, welcome to our hearing today, and thank you so much for your submission and for coming along. It is great to see you. I understand that Kathlin is appearing in support. You are most welcome. If there is anything that you need, just let us know. We will make this as informal as possible. We are here to listen to you and we really appreciate you taking the time to share your experiences with us. Do you want to make a short opening statement before we proceed to questions?

Ms DONALD: Yes I will. I am the pro bono researcher for the Keeping Women Out of Prison [KWOOP] Coalition. The convenor of the coalition, Rosalind Strong, is not able to be here today, so I am not exactly in place, but I am here to give a quick summary of KWOOP's mission which is, as I said, to keep women out of prison. But the main evidence will be from Eleni and Helen, from the point of view of lived experience and the point of view of their contact with other women with lived experience and with children.

The CHAIR: Is there anything else you wanted to add?

Ms DONALD: Yes. If I could just say to Mr Mason-Cox and the Committee, that I thank you for the opportunity to be able to meet with the Committee. I have studied all your backgrounds on the internet, and we fully acknowledge that you understand the importance of the general welfare of children of men and women who are in prison. We of course know that, in all your communities, you are concerned for the welfare of children, and we acknowledge that although that the children of men and women in prison are actually quite a small percentage of the children in your communities but, while the numbers are insignificant, the significance of their welfare is of very great importance. We understand, of course, the amount of work that you have all done in pursuing this inquiry which I read that you, yourselves, initiated as a committee. I hope that the evidence that is given today will help your deliberations.

The CHAIR: Thank you. We certainly appreciate your submission. Eleni or Helen, would you like to give a little bit of background to start with, as to how you find yourself here today?

Ms PSILLAKIS: Thank you for the opportunity to share at this hearing. I am a woman of lived experience. I spent 11 months in prisons in New South Wales—nothing that was on my bucket list to experience. I have three children, who were older at the time. My youngest was in year 12, which was a very significant year for him. I currently work with women who have had a criminal record, whether they have been incarcerated or on community orders, and so I have learned a lot about the impact on those women who are mothers, and whether it has been in an incarceration, or their sentence in the community, and how that has impacted them and their children. So I am here representing myself, and those women.

Ms EASON: I am an Aboriginal woman with lived experience. I have, you know, experience of the child protection system with my own children—I am a mother of five children, grandmother of three children. I have actually been incarcerated myself, and so—having children in the child protection system and being separated from community—I know exactly what it is like. I am here to speak from my experiences, as a mother, and being involved with the child protection system and the criminal justice system.

The CHAIR: Fantastic, thank you very much, it is much appreciated. I want to take you to your submission and your experience will be useful. You mentioned that there is no specific front-end diversionary programs to keep women out of prison. Can you expand on that? What do you think would have worked better in your experience, and what should be in place?

Ms EASON: So, I have established my own organisation, which is called Nelly's Healing Centre. I have 34 endorsement letters from different Ministers and politicians and stuff like that. I have identified a lot of gaps coming from lived experience. I think solutions—well, we can build as many rehabs as possible. We are targeting the drug addiction. I feel, without Nelly's Healing Centre, and without somewhere like Nelly's, where we are an accommodation space, and we trying to target the women going into prison on remand, if we have not got a space for our girls can go, instead of prison, how are we going to fill that gap, or change the cycle of our women going to prison on remand? It is also about a culture that comes from a long line of trauma. We have suffered genocide for a long time. It is not just genocide, it is where women that have been affected by sexual abuse, domestic violence, for instance. Who is targeting that area? Who is walking on that journey? This is not about women continually telling our stories, this is about us educating our women.

When we are fighting against, or when we are up against, a child protection system, or the criminal justice system, it is a whole new language that we are not used to. I did not even know what the word "affidavit" was. If we are a woman, from lived experience, and we are coming up against this, this is a whole new language. So, to have someone that is educated around this process, it makes it a lot easier for us, as an inmate, or a mother that is affected by the child protection system, for someone to understand that journey—there is a lot of boxes. I work on the ground now, so for me to work with a mother that has had a child removed, it takes up to a two-year period. The thing is, also, being a mum that is in prison, it used to be a mandatory four visits a year, for two hours, supervised. I guarantee, if you are an inmate, you do not get them four visits a year. Now, we have got SHINE for Kids that is meant to target this area as well. I can guarantee that I did not utilise SHINE for Kids. I also had a partner that done 4½ years. I tried several times for him to be able to access SHINE for Kids, to get visitations through it, for the kids—it never happened.

So we have these million-dollar services that are continually getting reoccurring funding and stuff, but how are they getting their outcomes? What outcomes are coming to the table here? This service should also be targeting this area as well, I feel. Nothing and no-one is targeting this area. When we leave that gate, we are not given dot points—we are not given any information; where to go. A lot of the time, case management, when it comes to our children, is handed over to an NGO service very quickly. We are not educated as to where to go, or who to access, to find out where our children are, to get any type of access to our children. Until this gap is filled, and there is some education around this space, how is this cycle going to change?

The CHAIR: Have you set up your own service, did you say?

Ms EASON: I have.

The CHAIR: Are you funded for that?

Ms EASON: I am not funded. I have been going now for three years. I work very closely with Strawberry Hills. I have a great relationship with Michael Coutts-Trotter, who supports me and endorses us. Still, with the outcomes and the work that I do, Michael has already agreed that the service that I am doing and targeting is needed. I am also the only organisation that is running a targeted Aboriginal women's drug and alcohol service in Redfern and the inner Sydney area. I think this service is crucial. I need funding to get the accommodation space. Nelly's is not an office space. We need that accommodation space. That gives us that three months to put that full wraparound our mothers, to start educating, empowering, and giving them the tools that they need.

We have also got women that are going on birth watch in hospital. We are having babies removed from hospitals. When we go into prison, our kids are removed. How do we get those babies back? How do we find out where our babies are? How do we get access? I have a daughter that was in prison. She was in an accident, and my two-and-a-half-year-old granddaughter was killed in that accident. My daughter went to jail for two years. Final orders were made on my grandson. We are still fighting that journey today, to get my grandson back into my daughter's care. This is five years down the track. Final orders were made about that child, and she received the papers in prison. Who was there to help her be at that court case? Who was there to translate that language for her? Who was there to tell her what was happening with her child? It is not there.

The CHAIR: Do you think the idea of having a child support officer or child protection officer in the prison is something that would be helpful?

Ms EASON: Yes. Now, I know this has been trialled. There has been a worker go in to the prison, and it is a big caseload. I do not know whether he is actually working at this present moment. They were conversations that me and Michael have had. I know for a fact, because I work very closely, also, with the Aboriginal practice team of DCJ. They were trying to nut out this position, and how that was going to roll. Hopefully, that is going to go in, and that is going to roll. I also said I would have liked to have been a part of that, to make sure that worked, because that was a position that really needed to be wrapped around, supported and made to work. It is needed—wholly. Without a child protection worker in there to access our mothers, how is that gap going to change?

Mr DAVID SHOEBRIDGE: For the record, I should indicate that I am one of the people who has written a letter of support for Nelly's Place of Healing. I have known you for a substantial amount of time, Helen. Thank you for all the work you do. I want to ask you about the need for Aboriginal-led responses, and why it is important that we have Aboriginal-led organisations helping Aboriginal women stay out of jail. What is unique about that?

Ms EASON: It is unique. I suppose can I talk on my drug and alcohol program. It had to partner with Odyssey House, which is another white organisation. They come in with a four-week program, and then we go on to a six-week program. To me, when does the conversation about drug and alcohol ever stop, because then we go on to relapse prevention. It is about how we share. It is about how we learn together. We do not speak a different language; we all speak English here. It is hard for us to translate, I suppose, a white language. For us to be able to

speak our ways, to share our ways, we empower each other when we tell our stories. When we are sharing, we bounce off each other, so it is crucial that we have our own Aboriginal-led organisations. They need to be empowered more, because they are the ones that are coming with the solutions for our people. I suppose it is how we speak, how we learn, Mr Shoebridge. Until more people come in and learn that is how we do things, people are not going to understand our way of learning and teaching each other.

Mr DAVID SHOEBRIDGE: Ms Psillakis, one of the areas where there is a huge need for lived experience and cultural knowledge is dealing with Aboriginal women and keeping them safe and out of jail through Aboriginal-led organisations. What about the need to involve women and men of lived experience in the prison system? You have that lived experience. How important is it that your experience is valued and brought to the table?

Ms PSILLAKIS: It is hugely needed, because our stories are not often told. We often feel silenced—number one, by the shame of being involved in the legal system, and having been incarcerated, or having a criminal record—in the community. You feel you do not have a voice, or that you are shut down, or you will be judged if you have your voice. I read some of the other organisations' submissions. I know that this does not happen. As an example, a lot of the mothers' and women's programs that were listed in other organisations' submissions did not happen in prison. We found, through the Bureau of Crime Statistics and Research [BOCSAR] statistics, that 90 per cent of women who are sentenced to prison are sentenced for less than six to 12 months. You do not have access to those programs in prison, yet Corrective Services state that you have. It depends on the length of your sentence. It depends on what classification you are given. Unless you are classified "Cat 1", which is minimal security, and that happens after months in prison, you do not have access to those programs.

Unless our voices and our experiences are heard—everybody believes what is on paper, but it does not happen. Before you go to prison you have presentence reports. One of the organisations that does a presentence report is Community Corrections. You sit with them for a couple of hours. They ask you a whole lot of questions about the charges and statements before them. I am speaking of my experience; I cannot speak for other women in this case. My presentence report from Community Corrections was for non-custodial; psychological report was non-custodial. I went to my sentence hearing, not knowing whether I was going to be sent to prison or not. I was handcuffed and taken on that day. I was not sentenced on the day of my sentence hearing, so I knew I was getting a custodial sentence. I was returned three days later to be sentenced to 11 months imprisonment.

When I came out and went back to my first probation and parole meeting, which had to be the very next day, I bumped into the man that did the presentence report. He said, "I have to tell you I was"—these are his words. He was furious, as he had a community service placement for me, and accepted. His words were, "Someone put their foot in it at the last minute." I could have been serving my sentence in the community with my children—with my son who was in year 12 at the time—but I was separated from my children. I do not know what happened. I do not know who put their foot in it. All I know, as my forensic psychologist explained to me, magistrates do not talk to police, do not talk to lawyers, and do not talk to psychologists involved, when it comes to sentencing. They each do their separate job. I would like to argue, and I would like it recommended, that everyone talks to each other, before we are sentenced.

If women are to be sentenced for less than 12 months, they should not be going to prison and separated from their children. Because the ripple effect, even on my children, was huge. I had to put in place, with a teacher, that my son in year 12 felt comfortable with me telling what I was going through—something in place for him, for his HSC. The impact on him was that he was terrified of who would find out. I have got a great relationship with my kids and we worked through it, but I know that the three of my even adult children—there were no services for them. Whether you are an adult or a 15-year-old—and I know there are not a lot of services for 15-year-olds—they are left to try and deal with this themselves.

Mr DAVID SHOEBRIDGE: Was your son doing the HSC your youngest child at the time?

Ms PSILLAKIS: Yes.

Mr DAVID SHOEBRIDGE: Mum is whisked out of his life when he is doing the HSC, and there was nothing or no support put in to replace that other than what you arranged?

Ms PSILLAKIS: Other than what I arranged, yes. Nothing. This is part of the arrest through to sentencing experience that I had: when I was arrested—I live in an apartment block, and when we got to the lift the detective said, "Just letting you know, there will be a videographer outside at the basement of your building, and we record this." I thought, "Why is this necessary?" and they said, "It is just what we do." And it was uploaded to YouTube. My children saw that. Before I got to Dee Why police station, which is five minutes from where I live, the day of arrest, it was broadcast on 2GB and my oldest son, on his way to university, heard that a 50-year-old

woman was arrested and he had an idea that it was me. I had no idea that it was going to be broadcast. The impact on him—I do not know why that needed to be broadcast.

Mr DAVID SHOEBRIDGE: One of the recommendations we have had from the Y foundations is that police, if they are arresting someone who is a parent, should be trained as to how to do it in a way that has the least disruption on the kids. It sounds to me like that is something you would support, Eleni.

Ms PSILLAKIS: Definitely.

Mr DAVID SHOEBRIDGE: And maybe not giving the drop to Channel 7 and 2GB at the time that someone is being arrested.

Ms PSILLAKIS: Yes, from before I even got to the station, it was broadcast. So you are guilty—I pled guilty, but this was the very beginning of the process. You are treated like you have not gone through the process. You are found guilty automatically, and no mitigating circumstances were even talked about before it was broadcast, and my son heard it.

Ms JODIE HARRISON: I have a son who did his HSC last year and I know it is tough at any time. What supports would you have liked to have seen for him, Eleni? How would you see it working in an ideal world for your son?

Ms PSILLAKIS: I believe SHINE for Kids was trying to get some program in place for children of school age but, again, it was not at that HSC level. It was maybe for 12- to 16-year-olds, so there was nothing for him. I would like to see a service, where someone who understood what a mother in prison would be experiencing, to support the child through that process at such a crucial time—I would like to see that. I know he chose a teacher at school that he felt comfortable in knowing, so I know I set up some support for him there. But, even then, that teacher fully did not understand my circumstance, and my son did not feel 100 per cent comfortable talking to him about it.

I would like to see a service where someone that understands both systems and the terminology around it—because again, like Helen said, I had no idea of what the terminology in the legal system was. I had never experienced it before. My children did not know what was going to happen to Mum, so when I was taken from court, they did not even know where I had gone. I did not know where I was being taken. You do not know. You do not know anything. You are going into a world of unknown. So some education for the children, as well as the mums going through it, would be great.

Ms ROBYN PRESTON: Thank you for your honesty and frankness in talking about your own personal experience, because that is really helping me get an understanding from your perspective. We talked to those that were incarcerated and those that are helping to plug the gaps, but to actually talk to people that have been through it is really important for me. I think I share the Committee's interest in it. You talked about being swept away from the family, the lack of understanding of where you are going and the family—there is that gap there. Yesterday I was talking to a governor of one of the prisons, and they talked about the difficulty when women are in remand. So, in that time before sentencing—and it can be up to 48 days—how did you feel, if I could ask for both of you to comment on that experience? Were you there long?

Ms EASON: Yes, I was on remand six months. I was lucky to get Supreme Court bail. That is why I got out in that six months. My 20-year-old daughter had care of two of my children at that time. Through the department, she was assessed as a carer—plus having her own two babies. Not having anything there, not even from the department, to support her, with another two teenage children that were in care to the Minister—absolutely nothing. Nothing. So I feel there needs to be a lot more support, also, around families that have children in care, and them children that are in care, because they are suffering trauma of just being in care alone. What about them, the visitation stopping and the phone contact stopping? That is really detrimental to children. I have one child that is still stuck in the struggle. How do I fix that trauma that was portrayed upon him when he was removed by the department? That son is in prison, and still in a struggle himself. Being a mum with a child that has been through each system now, I am very strong about this cycle needs to change.

Ms PSILLAKIS: Can I add another example, too, if I may? One of the women I support—I do not know if she was actually on remand or sentenced, but she had a court hearing while she was incarcerated for her children. She told me Corrective Services knew—

Ms ROBYN PRESTON: Custody of the children?

Ms PSILLAKIS: Yes. They knew that she was to appear in court, and they did not take her, and she lost that court case. Helen has told me a number of times this occurs.

Ms ROBYN PRESTON: That is good to know, because that has been an issue that does not seem to have been really dealt with at all. It is just people are parked in remand, and the connectivity with family is totally ignored or removed. Is that correct?

Ms EASON: Yes. And the thing is, you know, when our children are taken by the department—me speaking as an Aboriginal woman that has lived experience from that—we are to put a section 90. A section 90 is what we put in as a mother to get our children brought home. Usually our section 90s—

Ms ROBYN PRESTON: Can I ask how you found out you had to put that in? Who told you about this information?

Ms EASON: So I am a mum that fought for one child for seven years. I have had three separate removals, where my children had been made ward of the state three separate times. I am very proud to sit here, that I am a mother that won my children back from being ward of the state, on three separate occasions.

Ms ROBYN PRESTON: How did that make you feel when you were going through all this?

Ms PSILLAKIS: Is there a word to describe it?

Ms EASON: How do you describe that? I am a mum of five children, so if you had your children, there is five pieces of you out there. How can you ever be whole, or be a person with five of them pieces that make you who you are, missing? How do you sleep at night, when your baby could be crying for you? I describe myself as like a gorilla. What does a gorilla do if you go near her baby? So us, as a parent—how do we fight for our children? If we act when our children are taken, we are deemed mentally unstable. David Shoebridge has been there from the beginning of my story, so David knows I went through a massive journey. I made many wrong choices and decisions. How are any of them choices wrong, though, when you are living in that situation? That is how I look at it.

How is there a right or wrong way to act? Yes, in the white world, there is this certain way you are meant to act and deal with things. Being a proud Aboriginal woman, that has been brought up that way, how do we go and access white services that have taken from us? How do you go and engage with that service? How do you engage with these people, when they are the people that took your children? I work with services and white organisations today—they have no understanding whatsoever. I am coming up against it, when I am advocating for my women. These services are advocating and giving wrong information to our women. As I said, for me to work with a woman that has had her children taken, to work towards getting restoration and a section 90, that is a two-year journey.

What we are coming up against now—and you know, David—if our kids are in care for that two years, bang, attachment is brought straight to the table. Everyone is not looking at the attachment that we have got from birth, or that bond we instil at birth, but yet they are all talking about this attachment to carers. Carers now have the right to become a party to proceedings, when we are going for a section 90 to get our child, and that attachment is really being heard and being brought to the table. Am I right, David?

Mr DAVID SHOEBRIDGE: I cannot give evidence, unfortunately.

Ms EASON: Okay.

Mr DAVID SHOEBRIDGE: But the section—

Ms EASON: But, yes, so now the rights given to carers and everything—as a mother that went for three section 90s to get my kids restored, it is like we are hitting so many brick walls. It is a fight, a very hard fight to fight. How do we keep our mums strong in that two-year process to get bubs back? I have got mums that have gone through a pregnancy, worked with the department, they have signed off on this one-year-old little baby—that is amazing. I am talking about one mum here which is a mother of nine children. She got to keep her baby. They have just transferred back and done a transition period with her 14-year-old daughter, so she was able to go back in the home. They signed off after that three months, but yet mum has an active section 90 in play in the court for three children. The department is still opposing and fighting against that section 90 for these three children to come home. How?

Mr DAVID SHOEBRIDGE: To be clear, a section 90 is an application you make to vary the order.

Ms EASON: Yes.

Mr DAVID SHOEBRIDGE: So if a child is currently in the care of the Minister, and therefore in foster care, a section 90 is where you bring an order trying to bring the child back into the care of the parents.

Ms EASON: That is right, David, or we have got to put orders in to change visitation. It seems visitation has changed a bit now, from my experience, because I was only allowed with my child that was gone for seven

years. Noah is now 14. I have had them home now for 4½ years. But, for seven years, I was fighting for one child. He was 3½ when he was taken. I was only allowed to see that child four times a year, supervised, in an office. It took me a lot to get that just out in a park, where it was more family friendly and orientated. But you still have that supervisor sitting there, writing, and listening to conversations that are being had. So it is not really family-orientated, when you have got someone sitting there dictating conversations, continually writing.

Mr DAVID SHOEBRIDGE: We heard from SHINE earlier today that one of the things they do not want, if there are visits, is somebody from the Department of Communities and Justice sitting there—

Ms EASON: Thank you.

Mr DAVID SHOEBRIDGE: —taking notes as a kind of investigator. And that is your experience, Helen, that that can be destructive?

Ms EASON: Yes. Yes, it has been my experience the whole time with the department. As I said, I am a mother of five children that has had my five children removed. I have dealt with the department, I think, now, for 18 years or 19 years of my life. I am a 46-year-old woman. My eldest child is 26. I am still dealing with the department to fight, with my daughter, to bring my grandson home. I am very proud to say that my daughter is going to be successful, and he will be home at Christmas time. But, as I said, my grandson went into care at 11 months of age. He is now six years of age, turning seven in September.

Mr DAVID SHOEBRIDGE: Eleni, the impact of a short custodial sentence and the lack of support when there is a short custodial sentence, can you speak about that in terms of parenting?

Ms PSILLAKIS: The time you spend in prison is your custodial sentence. It does not end when you get out.

Ms EASON: That is right.

Ms PSILLAKIS: It does not end. The impact it has had on me, when you are told, you know, to try and move forward, contribute to the community, get a job, provide financially—I had my children, for about 18 months post-release, paying my bills. They were older children and were able to do that, but as a mother, that made me feel terrible. It is seven years from when I was released. Last Saturday I had a big meltdown, because I still did not feel I could provide sufficiently for my children as adults, because it took so long to get ahead. So the impact on me as a parent does not end when you leave the prison gates. My children saw me, many times, try to move forward and be shut down, or knocked back, or discriminated against from employment, and they know I am very capable, in a work situation, using my skills and talents. It has only been the last 12 months that I have had full-time work, six years down the track, and feel better about being able to provide some things that I have not been able to in those six years. So I feel the impact still, as a parent.

My children have been strong in standing up against gossip that they have experienced, when they have been out at parties and things. I am very proud of the way they handle themselves, but there is the impact of that, as well. It is only a couple of people in the community that might do that, but they are always on their back and, you know, looking over their shoulder is, "Are we going to have a confrontation with somebody gossiping?" It does not end. Because people just see the record, they do not see what you have experienced, trauma wise, or domestic violence wise, before offending, and when you come out, they do not see any rehabilitation. So that is what I have experienced as a mother of adult children.

Mr DAVID SHOEBRIDGE: We heard yesterday that the average length of a stay for women on remand—they have been refused bail, they are held on remand and they often get a non-custodial sentence—is 58 days.

Ms PSILLAKIS: Yes, I think Janet has got some statistics to that.

Ms DONALD: Yes. If we average out the quarterly reports of custody, yes, average would be—

Mr DAVID SHOEBRIDGE: In the order of.

Ms DONALD: Yes, 56 would do.

Mr DAVID SHOEBRIDGE: Why don't we call it 57?

Ms DONALD: But, yes, it is around about then, going from quarter to quarter.

Mr DAVID SHOEBRIDGE: All right. Can I just ask you, probably Eleni and Helen, to tell me about what that means for a woman who has got kids, if you are arrested, taken to court, put on remand for 58 days, and then get a non-custodial sentence and then are spat back out in the community again? What does that journey mean?

Ms EASON: For me, that journey, and the unknown—that is what I call it, the unknown. You are in limbo. You do not know whether you are Arthur or Martha and, as we say, we cannot access anything as a woman that is sitting there on remand. So to be sitting in a prison—my last sentence, I was there for three months before I even knew what my charges were. So to sit there in limbo and not know even what your charges are or to be communicating with anyone around that, it is disgusting.

Ms PSILLAKIS: I know of one woman who was incarcerated for a total of eight days. In those eight days, her partner took away her kids, took away her belongings, and she lost her children—for eight days. She has fought and fought to get that relationship back. This was years ago but, over eight days, she lost everything.

Ms EASON: I suppose, being a mother that was affected by the child protection system, I was the biggest failure. There was no coming back. I did not just let myself down, I let my babies down. How was I going to continue that fight? I had an amazing lawyer. We used that prison sentence to our benefit. There are ways that we can use it to our benefit, but it is a big, big fight. We are also labelled in there. If we are an ex-drug user, or we were a drug user, you are labelled that. I had a comment made by an area manager, that I was only a mother because I was inside them gates. Well, no, sweetheart, I am a mother when I walk in these gates, I am a mother when I leave, and I am also a mother whilst I am still in here.

The sad thing is, we do not get the access or get to be a proactive mother in there, and I feel it is crucial. They had the Involuntary Drug and Alcohol Treatment [IDAT] Program running at Dillwynia when I was there last time, as well. Me, being a mother that was trying to get a section 90 for my children in that time, I was unable to get random urines done. I felt it crucial for me to access that IDAT Program, because I was able to do the urines. It was like an independent drug and alcohol program, so to me it was like I was doing a rehabilitation whilst I was in prison. That could work for my benefit, because that would go towards my journey and my fight within my section 90.

I also wanted to access Mothering at a Distance whilst I was there. In that six months I was there, Mothering at a Distance did not even run. So I think programs like this, even if we are unsentenced, should be mandatory with our women that are affected by the child protection system, or having dealings there, even if it is just when we go in there. We need to be able to mandatorily access these programs, to show that we are still continuing on that road of sobriety, and that we are still being proactive, and we are trying to do what we need to do as a mother, in the best way, for our children in that situation.

Ms DONALD: Could I just say something, because I know the time is going. I am doing research—through the amazing BOCSAR database, which is unbelievably magnificent in its detail—looking at the arrest, summons, court, and sentencing process for women in New South Wales by local court. So far—I have not been doing this for very long—I have looked at about 12,000 penalties by Local Court, which BOCSAR has provided; not the people, but the actual penalty, and the number per court. I think, from what we are hearing today, and I am sure that you have heard throughout this inquiry, and looking at the actual the cause of arrest, looking at how that is classified—I am sure you will know the Australian and New Zealand Standard Offence Classification—actually being able to drill down to the actual offence, the detailed offence, that the woman was arrested for, looking at where the case is settled, which is 99 per cent in the Local Court—so it is a summary offence—looking at the length of sentence, which is 99 per cent in just about any year, is about 70 per cent in six months or less, and the remaining 20 per cent, 12 months or less—this is KWOOP's position. It is without doubt that the majority of women who are arrested in New South Wales, and end up in the Local Court, have no planned intention of criminality.

They are not intending to defy the law. They are not intending to act violently, to harm others, to act malevolently or maliciously, or to engage in organised crime. And their sentences, and where they are finalised, demonstrate that. So it is well known, and I am sure you all know it, and all research shows it, books show it - written by Australian criminologists, that—and I only know for women, and it is probably the same for men—that what ends up as a crime in the Local Court is the result of, simply, deprivation of the knowledge and skills and means and support for people to live without colliding with the law, together with the need of women, specifically, to navigate the dangers and harms of domestic violence. What I want to say is, KWOOP will continue to advocate for keeping women out of prison.

The CHAIR: I think you have made your point magnificently. We really appreciate you all coming today. To hear of your lived experience, Ms Psillakis and Ms Eason, is really powerful. Thank you so much for sharing that with us today. It is certainly something that will inform our decision-making and, no doubt, the content of our report, so again thank you for coming. If we do have some further questions, we will send them through to you and if you are able to get back to us within 21 days if that is okay, that would be terrific. Thank you all again for appearing today. It has been very powerful.

(The witnesses withdrew.)

JANET SCHORER, Children's Guardian, Office of the Children's Guardian, sworn and examined

VANESSA VIAGGIO, Policy Manager, Office of the Children's Guardian, affirmed and examined

The CHAIR: Thank you both very much. Would you like to make a short opening statement?

Ms SCHORER: Yes, thank you. I want to start by acknowledging that we meet on the traditional lands of the Gadigal people of the Eora Nation, and pay my respects to Elders past, present and emerging. Thank you to the Committee for the opportunity to speak to you today. My primary concern, as the Children's Guardian, is the safety and wellbeing of children in New South Wales. The Office of the Children's Guardian plays a lead role in establishing and improving the systems and frameworks in organisations and the individuals who work with children in New South Wales.

One of our really important functions is accrediting and regulating agencies that provide statutory out-of-home care. This means that we require those agencies to provide care for children according to a set of standards that consider the rights of the child as a primary focus for their care, and reviewing that care as the child's needs change, and making sure that children have access to information and experiences that help them to build a positive sense of self. While our submission reflects on the experiences of all children of incarcerated parents, because of our regulatory role in the care system, our observations are primarily influenced by children and young people who have come into contact with the out-of-home care system. We know that the incarceration of a parent places a child at increased risk of entering the care system and, whilst entering that system may present the safest option at that time for that child, there are also significant consequences.

As we know, children who enter the care system are more likely to experience homelessness, drug and alcohol misuse, and physical and sexual abuse. Also, they are significantly over-represented in the criminal justice system themselves. These two issues—the higher likelihood of entering care, and the higher risk of entering the criminal justice system—disproportionately impact on Aboriginal and Torres Strait Islander young people. The over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system has significant impacts upon their children. To quote the Secretariat of National Aboriginal and Islander Child Care:

Family is the cornerstone of Aboriginal and Torres Strait Islander culture, spirituality and identity.

This is significantly disrupted by parental incarceration. The *Family Is Culture* report, led by Professor Megan Davis, emphasised the need and the right of Aboriginal children in out-of-home care to maintain family and cultural connections. The report identified that connection to family, community, culture and country is a fundamental concept; it is central to identity, belonging and wellbeing. For all children in care, positive, child-focused contact with their family helps that child to develop, over time and in age-appropriate ways, with an accurate understanding of why they are in care. We know that children grieve the loss of their families when they come into care, regardless of any abuse or neglect they have experienced. Children worry about their parents, particularly when they are incarcerated. We know that some young people leaving care will naturally gravitate back to their families. Children and young people should be able to participate in the decisions about contact with a parent who is incarcerated, as they should with other decisions that affect their lives. Avoiding or limiting a child's experience of parental separation, or preventing them from entering the care system in the first place, can have long-term benefits for their health and wellbeing.

My recommendations to the inquiry were that evidence-based guidelines should be developed, to help inform carers to make better decisions about the contact between children and their imprisoned parents. These would include specific information about the benefits of children having contact with their parents, together with guidance to the assessment of any risk factors; and that there is better data collection about the children whose parents are in prison, and the issues, about supporting the parent-child relationship. This should be through a centralised process that is accessible to a range of stakeholders, to better inform policymaking about imprisoned parents, and to make sure that we have a coordinated and holistic response to the needs of children and young people, with early interventions that properly engage parents and their vulnerable children. In making these recommendations, we want to keep the wellbeing of children and young people at the forefront. For children, and for Aboriginal and Torres Strait Islander children in particular, these family bonds act as a powerful factor to help prevent offending, which can break the cycle of disadvantage. Thank you.

The CHAIR: Thank you very much for that opening statement. I take you to issue two in your submission, where you talk about improving data collection and information sharing. It has been a bit of a theme today, as you might have heard, and certainly in a range of submissions, about the disconnect in the system at various levels. I note in your submission you put, almost, the oxymoron that children's services typically do not ask about parental incarceration, and adult services do not, as a matter of course, ask about children. How would you go about improving these disconnects, so that we do not have these sorts of problems across, not one

department, but numbers of departments dealing in this area, in particular, be it Corrections, FACS, Education or Health?

Ms SCHORER: Starting with the lens that we are looking through, predominately in terms of children who are in care, we do not even know, in our current care system, how many of those children have parents in prison. So even to have that basic level of information when it comes to the case management plan around those children and young people, to even know that that is a factor in their life—"Where is mum or dad? Are they in prison anywhere near, where I can have contact?"—to even have that basic level of information for the support services around a child when they are in care.

I think the other part of this goes to the nature of early intervention and where that first contact is for a parent, which is often the police or another support service, around the time of that activity. To even have some form of operational trigger, which I think the Advocate for Children and Young People has alluded to and recommended in her submission, that would—at least ask the question: are there any children at home, and who can we ring to make sure they are okay? If that is not a system-wide response now, that is the first part of it. But we know children go to school, and no-one at school knows that mum or dad is now in jail. How does that information get shared? Because a child is not going to want to share that voluntarily themselves, because they are worried, or they are fearful that someone is going to take them away, or they are ashamed. That is a big burden to put on children, when the system could probably share that a bit more actively on their behalf.

The CHAIR: SHINE for Kids spoke to us about their RISE program, and there is just no information about the child in school who might need the support it is offering. What do you think should be the response from government? How do you think there should be a trigger? And, if so, how do you manage the privacy concerns in that context?

Ms SCHORER: The privacy concern is an interesting one, around the parents' rights, but I think there are some good examples that I am aware of—they might be a bit historic, which shows my age—around the more proactive, integrated type of information sharing that is something like what we have with Chapter 16A, but that is for a slightly different purpose. When it is for the benefit of an integrated response to a child's or young person's needs, an obligation on an organisation to share information, so that it can be proactively used for the immediate wellbeing of that child, would seem to be a step towards almost obliging agencies to actively share information.

I think the other aspect to this is a role that the community and the non-government sector significantly play here. The nature of operation, usually, in an NGO or in community is that you kind of know the lay of the land, and you know what is going on. I think they would also have a critical role in being a front end for that, whether that is about how someone is supported during an interview process or an arrest, and to identify through a support where there are children, and how they can then reach out to the family, or to different services. But for Aboriginal communities—that there are more agencies and organisations on the ground that represent the network of family and community, that can come in around a family and support them to make sure that the children stay in place, are secure, know what is going on, and have family around them.

Mr DAVID SHOEBRIDGE: Thank you both for your attendance. Ms Viaggio, it is interesting seeing you on the other side of the table.

Ms VIAGGIO: It is interesting being here.

Mr DAVID SHOEBRIDGE: I recall and appreciate the work you did in the Legislative Council as one of our highly valued research officers before you got poached by the royal commission. Could I ask you about whether or not the Children's Guardian thinks that courts should take into account whether or not a person who comes before them for sentencing has children? Should the rights of children be part of a sentencing process?

Ms SCHORER: Yes, I think that is correct. Any decision, even for a short period of time in prison—I have been reading about Aboriginal women in custody. A short amount of time—even a few weeks in prison—has a significant impact on a child. So I think there are certainly better approaches to how that sentencing might happen that would enable the consideration of a child to be a factor of the bail conditions, or of the other decisions that are made for support that happens as a result of someone being imprisoned, yes.

Mr DAVID SHOEBRIDGE: In proceedings that involve children under the Family Law Act, you will often see a child's advocate or an independent advocate for the child. Obviously, that is to give voice to the child and to ensure the child's interests and the best interests of the child are represented; yet in sentencing that voice is not heard at all. In fact, the interests are not even considered. Are there any models you can point to that actually involve the rights of children in sentencing? Are there any models around the country?

Ms VIAGGIO: Not to my knowledge, but I am happy to take it on notice.

Ms SCHORER: I cannot think of anything but, yes, I agree.

Mr DAVID SHOEBRIDGE: It may well be that for resourcing reasons having an advocate there in all the local courts may be impossible; I do not know. But surely having information before the court, and the court taking it into account, and having at least that loop closed, should be something this Committee should consider?

Ms SCHORER: The parallel that comes to mind is the model of domestic and family violence support that is often tied with police, or is in the court, so that exactly that happens. The woman, or the victim of domestic violence, is supported through the court process, but then the wraparound support happens from that time. Whether a child needs to have a specific legal voice through that process, or just that there is the right kind of support within the court for the child to know what is going on, participate and understand what is going on—that is the parallel, I would have thought, and is the right sort of support.

Mr DAVID SHOEBRIDGE: You point out that there is not even any data about it. Multiple submissions talk about kids being the invisible victims of crime. If there is not even any data, it puts truth to that statement, does it not?

Ms SCHORER: Well, you value what you measure. It is completely hidden, yes.

Ms ROBYN PRESTON: Just listening and going out to the prisons and talking to the different groups and those that were incarcerated, I shake my head in realising that there does not seem to be a process in place when the woman is taken from the home and put in jail. Is there not an explanation of what to expect in the process, that the person that is under arrest—is that not explained so that the anxiousness and the unknown, going forward, is perhaps managed a little better? I have heard from other witnesses who say that was not the case—that they were not informed of what happens—and the connection and conduit with their children outside is totally cut off. Is that correct?

Ms SCHORER: I suspect that is broadly true, and it may be a factor, of how some of these things happen quite quickly and under different pressures, that those sorts of processes do not happen. But I do not think there is any reason why it cannot be built into, once the heat of the moment is over—that those sorts of things cannot be explained and unpacked with someone.

Ms ROBYN PRESTON: Managing people's anxiety of being incarcerated and not knowing the journey—I know you cannot give them an exact time line, but just explaining the process to them so that they have an understanding of, "Okay, I am here. The children have been removed. I know I will not have access to speak with them or the family for this period." None of that seems to be managed from the person going into prison or the family, so there is that real uncertainty from both sides that creates so much more mental stress and trauma. Without even judging why the person has been removed from the children—there might be a very good reason that that is the case, and the children might have been at risk. But to actually manage both sides, I would have thought, would be better—to keep them informed as to the process, at least. That does not seem to be happening, that I can see.

Ms SCHORER: I agree—or consistently.

Mr DAVID SHOEBRIDGE: There is no entity that looks at it—instead of having the children removed, there does not seem to be any entity that looks at it as kids having their parent removed. That is the framework that is missing entirely, is it not?

Ms VIAGGIO: I think that is right. I think what we are seeing is that this is the criminal justice system at work, and it is focused on the accused or the offender, depending at which stage of the process. What we are talking about is a welfare system response, and the lack of integration between those—

Ms ROBYN PRESTON: Yes, it looks at the offence rather than the individuals, and the impact that has, and how you manage that.

Ms VIAGGIO: That is right. What we see is that, as soon as a parent is removed—either under arrest, placed on remand or incarcerated—the risk of that child entering the out-of-home care system skyrockets. We know that the clash of those two systems is coming, but we do not have the links between them to effectively manage the really detrimental impacts, obviously on the children, but also on community, on parents, and on reoffending risk, really, if we are looking at it from the criminal justice lens.

Ms JODIE HARRISON: I have a couple of questions in relation to child protection. We have heard that some correctional facilities have child protection officers in them. We have also heard from witnesses about suspicion of the child protection system. My question is: Are child protection officers the right people to have in correctional facilities, or is it someone else, in your view?

Ms SCHORER: Thank you for the question; that is interesting. You want people who are skilled at the kind of work, that is, understanding the family dynamic, and having the right skills in mediation, and the skills

that come with that kind of work, whether they are child protection workers—as in, people who work for DCJ, from that system—or people who have that expertise, with the right empathy that goes along with that sort of role. It is more those characteristics, rather than someone who is a hard-nosed child protection worker. The work there, I would have thought, is about understanding the risks to children but being proportionate with that, and seeing the ongoing role a parent has in a child's life.

Even if that parent has been a risk to the child, there is still a role for that parent—safely—in a child's life. How do you make that happen for both parties? It is beneficial for the child, but it is also beneficial in terms of rehabilitation and mental health for the parent. You need some good skill to navigate that, but it does not mean you have to be a child protection worker, necessarily. Someone who is an excellent family support worker and someone who has got those family skills, I think, would be the right kind of person. As you say, you do not want to fear to be, "Anything I say is just going to mean that I have less contact with my child, or diminish any opportunity for restoration at any point in my child's life, and I do not want that."

Ms JODIE HARRISON: In relation to your recommendation for issue one—the guidelines to support carers to manage conflict and those evidence-based guidelines to assist carers and others to manage contact between children and imprisoned parents—do you have a view on who should develop those?

Ms SCHORER: I have no specific view. When it comes to guidelines for carers, there is obviously a role, perhaps, for the peak agencies who work with carers or work with the NGO sector. But I would have thought we have a role, as well, in providing that sort of guidance.

Mr PETER SIDGREAVES: Thank you for coming along, and thank you for your submission and input into this process. One of the questions I have got is: how have you found information sharing? What has been your experience between agencies, government departments, NGOs and so forth, and what do you think could be some of the improvements made to that?

Ms SCHORER: Thank you for a good question that gives me pause for thought. I will start by saying we have a different lens on information sharing, because when you are the regulator or the oversight body, you can compel it. That makes our role slightly different. But, certainly, we observe within the system that there is a level of—sometimes it is good, but it is a frustration for people. I think that would be a frustration that would be keenly felt by the NGO sector. I think they would speak to getting access to the right kind of information in a timely way, particularly when, as often happens in relation to the care system, decisions about an alternative placement are made quickly. Being able to have the right information about that young person, and being able to place them well and settle them well, can be challenging. Now, there are tricky aspects to that for the department, as well, when things are happening quickly, but under those circumstances it is quite difficult.

The other aspect of it is information that enables someone who is working with a young person to actually deeply understand them. Some of that is what you see in a plan, but some of that is just making sure—which is what we try to do through the Child Safe Standards—that a young person's story is told, and that story keeps getting told, through their own records, and those are shared. Particularly, for children who have multiple placements as a result of this sort of dynamic, where a parent is in prison, that story can get very quickly lost. That just perpetuates trauma, if people do not know you. A system that has respect for a child's story and information is as important as the facts about their mental health, their health, or those sorts of things. Both have to be shared. "Inconsistent" would be the honest answer. There is a lot more to do. I do not know that the answer is a big system that rules the world. It may just be that system collaboration is much more assertively expected, and is driven primarily from the rights and interests of the child, rather than the system's needs, if I can say it that way.

Mr DAVID SHOEBRIDGE: More than \$300 million was spent by DCJ over the past four years, and about the only identifiable program that came out of that was Their Futures Matter. The only identifiable outcome out of it that seemed to have any potential for ongoing benefit was providing the data pool and, particularly, identifying groups of vulnerable young people. Have you seen any action out of that, in terms of it then being used to target interventions properly?

Ms SCHORER: There are a couple of examples that come to mind, particularly for young people in remand. A project that was in western Sydney—this will test my memory for detail—really focused on young people who get stuck in remand and, working on what we are talking about here, more of a wraparound support to shift that. That is one example. There will be others, but that is certainly one that started to try to look at more integration, and shifting the system towards earlier intervention, where that data told us there were points to do that.

Mr DAVID SHOEBRIDGE: I think it is called investment modelling. It was a big project for DCJ, saying that, if you pull together all the data, from all the different government departments and all the interactions a young person has, by the time a child is aged three or four you have a pretty solid predictor about what their

pathway will be. That is meant to have happened. We are meant to be getting that data together, but have you been briefed on whether or not it has actually been applied and used to usefully intervene?

Ms SCHORER: Not recently, no.

Mr DAVID SHOEBRIDGE: Okay. I am not blaming you; it is just frustrating. It was a \$300 million to \$400 million spend. That was the one thing the Audit Office said actually worked out of it, and it is just sitting there on a shelf somewhere.

The CHAIR: Can I put a hypothetical to you? Bear with me for a moment. Given the well-documented negative outcomes for many children of being in out-of-home care and the pathways that may manifest from that, and given the evidence we have heard in relation to the significant majority of women who have offences of 12 months or less, do you have a view in relation to ensuring that women or parents with sentences less than 12 months should be diverted from being incarcerated—via either intensive correction orders or community intervention orders—so that we do not end up with their children, if they are the primary carer, ending up in out-of-home care?

Ms SCHORER: As a basic principle—I have a health background, so anything that is about prevention and keeping people away from systems is something I actively support. Anything that is diversionary out of systems that we know, once you are in them, have a whole lot of compounding consequences, is always worth exploring. Diversion needs the right support around it, and that is the other side to it. It is one thing to have the legislative or the court-based diversion, but you have to make sure that you have the right kind of support around people. If we are talking about Aboriginal women, it has to be community-based and designed and driven by community, if it is going to actually meet the needs of that family. It has to have the right kind of mental health and drug and alcohol support in it to be restorative and rehabilitative. You have to have not just the diversion, because without that people would just slip back. If it is driven from a strengths-based, "We don't want you back" approach then, absolutely, diversion is much preferred.

Mr DAVID SHOEBRIDGE: It may be outside your remit, but a number of law reform bodies have made repeated recommendations to abolish short sentences. Some say 12 months or less; some say six months or less. I recall, at least in 2004, the NSW Sentencing Council recommended abolishing all sentences of six months or less, because the disruption and the disjuncture in people's lives is so great, and whatever deterrent effect is so minimal that Parliament should intervene and prevent it. Do you have any view about that?

Ms VIAGGIO: Just to say that I think, as Ms Schorer has said, that is absolutely the case. The Australian Law Reform Commission made similar recommendations around that. Particularly, in respect of women and mothers, when they are coming into contact with the system, those offences are often poverty-based and disadvantage-based offences. Diversion into a system that provides proper wraparound support makes sense. I know there are questions around cost of providing that support—what does that look like? You would have to ask, what is the cost, both fiscal and social, of putting them away for a few months?

Mr DAVID SHOEBRIDGE: This Committee is looking at the impact on children of custodial sentences. At a minimum, one of the recommendations we could make would be to say there should be a prohibition—unless there are some extraordinary exceptional circumstances—on sentencing a primary carer to a sentence of six months or less, and to require an intensive correction order as an alternative.

Ms SCHORER: From the perspective of a child or young person, a parent in prison is a parent in prison. Their whole life in prison is disruptive, but six weeks is disruptive, and the stigma and the separation and the effects of that can have as big an effect as a longer sentence for a child. Anything that maintains that, and acknowledges the consequence for the parent, but is more diversionary—from the perspective of a child—is much preferred.

Mr DAVID SHOEBRIDGE: We heard from Eleni Psillakis just before you came in, about a mum who lost her kids following an eight-day period of detention.

Ms SCHORER: Yes, that is profound.

Ms ROBYN PRESTON: Just picking up on Mr Shoebridge's comments in that line of conversation, and the issues, if we stood back here and said we need to change the way we deal with that sort of sentencing for less than 12 months—six to 12 months—where do you draw the line? If you have women that are subject to those penalties that do not have children, then they have to serve that sentence, and then you have someone who is a carer or has children and they get put through a program of rehabilitation. How do you play favourites in that way, if I can say it that way? What are your thoughts on that?

Ms SCHORER: There are probably legislative minds that could turn themselves to that, but the question is probably broader than whether women are parents, and what other responsibilities a woman might have as

a carer in other aspects. You still have to be proportionate. You would not want to be in the position, as you say, where it is just one part of the community that ends up with a custodial sentence. But, if the basic principle is that people who commit those offences are diverted, regardless of whether they are parents or not, it affords the whole community the benefit of that diversion. I think that would be preferred, rather than drawing the line.

Mr DAVID SHOEBRIDGE: There is a fresh set of rights to consider, though, in an example where the person before the court is a primary carer or a parent. The rights of the children need to also be brought to the table, and that is what distinguishes it. There are those invisible victims whose rights need to be considered, and that is a clear distinguishing feature.

Ms SCHORER: And weighted in the decision, yes.

The CHAIR: Thank you both very much for coming today. We may have some questions on notice that we will put to you. If you are able to respond within 21 days, that would be greatly appreciated. Thank you for all of the wonderful work you do, too.

(The witnesses withdrew.)

(Luncheon adjournment)

KARLEEN GRIBBLE, Adjunct Associate Professor, affirmed and examined

The CHAIR: Welcome back to the inquiry. Welcome, Adjunct Associate Professor Karleen Gribble, and thank you very much for your submission. Would you like to make an opening statement before we move to questions?

Associate Professor GRIBBLE: Sure. Just briefly, I will give a little bit of my background, and interest in this area. My primary area of work is in infant feeding, but I have a particular interest in the relationship between mothers and infants. As a result of that, I have been involved in areas where, I guess, that relationship is in jeopardy, for mothers who interact with the child protection system, with the justice system, with the immigration detention system and, also, in emergencies. I think what you will have seen in my submission and, also, what I bring here today, is that expertise in that relationship and in childhood trauma. While I have had some significant interaction with mothers who have been imprisoned or at risk of imprisonment, my main expertise is with children, and I apply a child rights framework to my work. So where I am coming from is how is this impacting the child, and how can we actually mitigate against this and protect them so that they do not suffer?

The CHAIR: Thank you. I might just open questioning. In relation to your submission, I want to take you to recommendations 3 and 4 in particular. Recommendation 3, in terms of active steps to be taken at the earliest possible stage to identify whether a woman is a primary caregiver of an infant or young child, even before sentencing and certainly at incarceration, what is happening now, in your view, and, in that regard, what needs to change?

Associate Professor GRIBBLE: I think it is a bit hit and miss really. I think sometimes it will be identified. We are going even further back, in fact. Even at the time of arrest, that should be something that is under consideration. We had a very unfortunate case last year in the Northern Territory, where a mother was arrested and taken away. I think she was only away from home for about 24 hours, but during that time her infant died, under circumstances that were unclear. So we really need to be, I guess, understanding the importance of the mother in protecting children under most circumstances. If she is going to be separated, we need to make sure that there is some sort of plan to keep that infant or young child safe, because they do not have a voice themselves.

The CHAIR: We were at the Jacaranda Cottages, just yesterday—it seems so long ago. It is quite an impressive facility, but it is quite limited in terms of numbers. One of the questions that we asked at the time was, when you do identify in the system, so to speak, someone who is pregnant or, indeed, with young children below the age of five or preschool age, which is the limit at the facility at the moment, what do you do to direct them or fast-track them, categorise them, in a way which brings them into this sort of facility, assuming that there are no security risks prevalent? How do you proactively ensure that happens rather than leave them, if you like, sitting where there are? Do you have a view about what should be done in that regard?

Associate Professor GRIBBLE: I think that this needs to be systematised, like I said, from the point of arrest, all the way through, so that women are asked on multiple occasions, "Are you the primary caregiver of children?" so that there is no opportunity for that to be missed. As I said, I am not an expert on the criminal justice system or the prison system, but from speaking to people who have worked within that system, and who have worked with women who have experienced that system and, indeed, with women themselves, it seems that with regards to Jacaranda that there is not a lot of, I guess, policy or procedure that surrounds entry into Jacaranda; it appears to be very flexible; so anybody can make a referral to Jacaranda before sentencing, after sentencing, when a woman is incarcerated—it can come from anywhere, but, in practice, I think that just leaves it to chance sometimes as to whether that happens or not.

The CHAIR: Do you think, by institutionalising asking that question, we can, certainly, at least then identify and understand whether or not that process is suitable for the person? There are a few internal processes in corrections in terms of how they classify prisoners. Do you think the classification should be that relevant, in relation to having a child and the mother together?

Associate Professor GRIBBLE: I think there should be individual assessment. I think it should be based on—again, there does not seem to be criteria published, so women are not necessarily told why they are not permitted to have their child with them in Jacaranda, and that also means that there is no opportunity for appeal if their application is rejected, and also decisions are often made very late in pregnancy, which does not provide time. Sometimes women are told after they have had their baby that they are not able to take them back. So I think that there really does need to be that, again, policies and procedures, and open and transparent processes, to enable decisions to be made in a timely manner and in a fair manner, and in a manner that actually centres the child in the decision-making.

The CHAIR: Ms Preston?

Ms ROBYN PRESTON: Just following up on your comments there, you talked about the process of women going to Jacaranda Cottages. To your best knowledge, how does that occur? Who is responsible for raising that transfer?

Associate Professor GRIBBLE: Making the decision?

Ms ROBYN PRESTON: Actually making an application to be considered for that decision.

Associate Professor GRIBBLE: Anybody can make an application.

Ms ROBYN PRESTON: Who does that mean?

Associate Professor GRIBBLE: That might mean a caseworker in the community might make an application, or it might be an application that is made—potentially, a midwife could make an application.

Ms ROBYN PRESTON: Is the intern made aware of their rights, in relation to wanting to apply for staying at Jacaranda Cottages?

Associate Professor GRIBBLE: I am not aware whether that is actually part of the process.

Ms ROBYN PRESTON: Because you talked about process, and how there seemed to be a lack of process, and we have raised this with other witnesses as well, so I am hearing it reinforced here. What is the best process you see could happen, so that when they come to the prison system they are informed of the steps and the processes and rites of passage, I suppose, as to access to children, moving into different areas, time frames?

Associate Professor GRIBBLE: They should be provided with verbal and written information.

Ms ROBYN PRESTON: Who do you think should provide that?

Associate Professor GRIBBLE: I am presuming that there is an intake process when you go into prison, and that, as part of that, you will be given all sorts of information, and that that should be the case, but even at the time of sentencing or before, there seems to be relatively little information available.

Ms ROBYN PRESTON: That is what I am hearing. You have just reinforced it. Thank you.

The CHAIR: Ms Harrison?

Ms JODIE HARRISON: Thank you, Professor Gribble, for your submission and accepting the invitation to address us today. I have a couple of questions. Firstly, in relation to what you call the attachment-focused mothering program, as the Chair said, we were at Jacaranda Cottages yesterday and one of the things that we saw and we were told was that there are two mothers in a unit together, and they learn off each other. I am interested to find out from you, what are the key aspects of an attachment-focused program that are not currently being met at Jacaranda Cottages?

Associate Professor GRIBBLE: As others will have said, and I heard this morning when I was listening in, women who are incarcerated in New South Wales, the majority of them, have quite extensive trauma histories. Many of them have had an experience of childhood trauma. They will have been in the child protection system themselves. They are already in a position where, because of their history, they will have greater difficulty in providing good-enough care to their children. So they are already in a position where they are in need of more support than your general mother in the community. There are programs that provide for women in the community who have given birth, and who are considered to be vulnerable, like extended home visiting with a family-and-child health nurse, who will actually provide mothers with individualised assistance in caring for their child.

You say there are two mothers together in a room and that they learn off one another. What they learn off one another might not be good. It really is, I think, a mistake to think that—you have got that institutionalised environment as well, even in Jacaranda. It is not like being at home. A lot of these women in the community will have quite significant external stressors—other external stressors. They may have been in a domestic violence relationship. They may have been living in quite extreme poverty and have stress associated with that. In some respects, those stressors may have been removed when they have entered prison. That might be of assistance to them, in being able to be responsive to their baby or young child. But a lot of them would really benefit from support to actually help them to be responsive to their child.

There is some very nice research, which I referred to in my submission, of a program that was in New York, I believe, where they were providing one-on-one attachment-focused assistance, helping mothers to understand their babies and to be responsive to them, to the extent that those infants—when they did an assessment of their mental health at a year of age—who had actually been in prison for longer, had better mental health than those who had been in there for shorter periods of time. The idea of actually having a place where mothers can be

with their babies in prison, I think, is a good thing, absolutely. But we should be going further than that because the benefit is really limited, because of the vulnerabilities of the mothers, because of the institutional environment.

I guess the question is "What is the purpose of doing this?" Some people see it from the view of the mother and of the distress that is caused by her being separated from her baby. But we really need to be taking a long-term view here, and thinking about what does this mean for the infant, what does this mean in the long term. Do we want these children to be able to grow up to be functioning, healthy members of society who are able to look after their own children?

I do some research in out-of-home care, on foster care and adoption. I just last year finished doing interviews for a study, speaking to women whose children were in out-of-home care or who had been adopted. For some of them, their grandparents had been in out-of-home care, their parents had been in out-of-home care, they had been in out-of-home care, their children were all in out-of-home care. They have really been terribly failed. I think that, potentially, when we have this unfortunate situation, when women are being imprisoned and they are pregnant or they have got young children, potentially, there is an upside to that: that there is an opportunity to provide that mother with support that will actually enable her to provide good enough care to that child. It will change her life, but also be a turning point for her child.

Mr DAVID SHOEBRIDGE: Thanks very much, Professor. But your primary position is "Stop putting mums in jail", is it not?

Associate Professor GRIBBLE: I am not an expert on incarceration. But, certainly, we do have that recommendation from the inquiry in the 1990s, and I know from many people who work in this area that that is the advice: if it can be avoided, avoid it.

Mr DAVID SHOEBRIDGE: The evidence we have is that, very often, women, when they go to jail—mums, when they go to jail—are going to jail for very short periods of time, relatively. Average time on remand is 56, 57, 58 days. The overwhelming majority of such women are serving very short sentences. What does even a 58-day separation between a mother and different-aged children cause?

Associate Professor GRIBBLE: This is the thing. Two months for an adult is actually a really short period of time. Two months for a two-month-old baby is half of their life. Actually thinking about the importance of that relationship—mothers and infants, in many respects, are not separate individuals. They are actually linked physiologically and psychologically. If you interrupt that—there are randomised controlled trials, even, looking at what happens in a hospital when a mother has just had her baby and they are separated for three or four days, when the baby just comes to the mother to be fed and is otherwise in a nursery. What happens when that happens is that mother's ability to provide good care to their child is severely compromised. You are looking at much increased rates of maltreatment and abandonment.

When you are looking at really short periods of time—one of the really significant problems with the Jacaranda program is that women cannot apply to be in it until they are actually in prison. This is the same problem, as I understand it, in all of the jurisdictions in Australia. She may have a two-month-old baby or a three-month-old baby, and she is going to prison for six months. She may get into prison and apply to have her baby with her in Jacaranda, but that process is going to take a period of time—potentially, a few months. The damage has been done to that child, and to that relationship, in that time. The ability of children to actually conceptualise themselves as separate from their mother, and of her existing when she is not physically with them, varies with age. By the time a child has the ability to understand language, by three or four years of age, it is not as difficult or damaging as what it is with a child who is under three years of age or under two years of age. So it is something that should be being really seriously considered.

Mr PETER SIDGREAVES: I am just following up to that statement. Do you think there is a disconnection between the justice system and the correctional system?

Associate Professor GRIBBLE: "Do you think"?

Mr PETER SIDGREAVES: Can you provide details to that?

Associate Professor GRIBBLE: Sure. I think what we have got here is different players, even within that. We have got the Department of Communities and Justice. They were two separate departments. They have now been joined. They really should be communicating with one another in a much better way. Communities and Justice have responsibility for children. They should be actively advocating for these very vulnerable children. We have also got the Department of Health and, within that, Justice Health. There are also issues there. Even when a woman gives birth in a hospital, you can have those three different agencies involved. You have got the Justice section; you have got Communities and Justice involved; and you have also got the Department of Health. Sometimes women do not get the same care that they would get if there was not that involvement, simply because

midwives are not really aware of who is in charge. That is one of the factors that plays in, within the hospital. But even with things like transporting milk, or making sure that mothers get to be with their baby in hospital if they are hospitalised, there is a real breakdown, because we have got different agencies involved.

Ms JODIE HARRISON: Could you please explain scientifically how the brain develops in those early stages? You were talking about birth and having the mother incarcerated and being separated from a child at birth. Scientifically, how does that actually impact the child?

Associate Professor GRIBBLE: It impacts the child in a couple of ways. The one that we know the most about is actually how it impacts the mother. When an infant is born, if they are given straightaway to the mother, she has a whole interplay of hormones that actually really impact her physiologically and psychologically. She has oxytocin that is released in very large amounts in her body, which reduces her stress levels and responsiveness to stress for a couple of days. It orientates her towards her baby. If she experiences that skin to skin contact, she will touch her baby more. She will communicate with her baby more. She will smile at her baby more. That can be measured even a year down the track. We are not talking about particularly vulnerable mothers, necessarily; we are talking about this as applying to all mothers. What happens at the beginning becomes a bit of a cascade. One thing builds into another thing, which builds into another thing. That is why you get this impact that can be measured so far down the track.

It is the same with breastfeeding. It is really protective of that relationship. There is new research showing that even where mothers are depressed—and we know that, if a mother is depressed, it can make it more difficult for her to be responsive to her baby—if she is breastfeeding, it does not impact the quality of the interaction between her and her baby, and her baby's brain function is not impacted by her depression. We like to think that we are human beings, and that we are not really impacted by our physiology or our hormones in terms of how we act—but we are. That is why it is so important to be providing that early on, and really keeping in mind just how vulnerable some of these mothers are.

One of my other areas of work is in emergencies. I have been working internationally, and in Australia, regarding COVID-19 policies for maternal and newborn care. Our policies in Australia have not been terrible, but some of them have resulted in mothers and infants being separated because of hospital policies. There was one lovely mum who I was providing some support to. She had been separated from her baby for four weeks while she had medical treatment in a hospital here in Sydney, and the visiting was extremely limited. After they were reunited she really struggled to rebuild that relationship. Her baby seemed to be really angry with her, and it took her quite some time for them to actually get to know one another again, and for that relationship to be healed. This was a woman who did not have any of those background challenges. She was an experienced mother who had lots of resources at her disposal, yet it took her many weeks, actually, to repair that. If you are looking at really vulnerable mothers, they have really got it stacked up against them. It is just really hard. I do not know if I answered your question!

Ms JODIE HARRISON: Yes, you did. Thank you.

The CHAIR: I noticed in your submission that you mention experience at Nepean Hospital, I think it was. There is a question in relation to circumstances where sometimes there is a refusal—I presume by Corrective Services—to transport hospitalised women to the special-care nursery, without good reason.

Associate Professor GRIBBLE: Yes.

The CHAIR: Can you explain that a bit further, and the circumstances that raised that issue with you?

Associate Professor GRIBBLE: If an infant has been substance-exposed in utero—their mother has perhaps been on a methadone program—they may experience neonatal abstinence syndrome. Where that is the case, that can mean that they are hospitalised, and that they stay in hospital in the special-care nursery for some time. Mothers may be discharged back to the prison, and the infant will stay in the nursery in the hospital. It is really hit and miss, about whether mothers will actually be transported to be with their baby during that time of hospitalisation, and it does seem to be up to the discretion of staff. Again, I think a lot of what happens with mothers and infants within the system is based on whether it is convenient, it is easy to do, and whether they like this woman. It seems often that it is more the exception than the rule.

SHINE was mentioning Victoria, earlier in the hearing. From what I have heard, their system works better because it is more of an expectation. Even with entering the Jacaranda Centre here, from what I have heard—and the Committee may be able to get hard data on this—it is maybe about 20 per cent of women, on average, who give birth while they are incarcerated, who will end up there with their infants, over years. It is an exception, rather than the rule, whereas you would expect that it should be the expectation that they will actually go there with their child, with there being really clear exceptional reasons why that should not be the case—and it should be the same for mothers whose infants are hospitalised, with them visiting.

The CHAIR: In those sorts of circumstances—I am reading between the lines—are you suggesting there be some sort of parenting plan signed off, if you like, by Corrective Services NSW, Justice Health or NSW Health, depending on the circumstances, so that it is clear about what is going to happen and who is responsible and accountable? Is that something that you are looking at or suggesting, or is there something else that you think might improve the situation?

Associate Professor GRIBBLE: I think they need a big decision tree, really.

The CHAIR: Yes.

Associate Professor GRIBBLE: You know, "If this happens, then this person must do this."

The CHAIR: Some clarity around roles and responsibilities.

Associate Professor GRIBBLE: Some real clarity around who is responsible for what and what must happen—not so much discretion.

The CHAIR: And the expectation is that the mother is with the child, rather than the other way around.

Associate Professor GRIBBLE: Yes.

The CHAIR: So the expectation is very clear.

Associate Professor GRIBBLE: Yes. I think it is particularly clear-cut when you are looking at infants—it really is—and particularly when you are looking at a situation where you have got a pregnant woman. There is actually time to get all the ducks lined up, so that if she is incarcerated, and if it is not possible for her to be in the community, that there is a plan worked out. If circumstances change then, by all means, that may mean that a decision may change. But it needs to be worked out at the earliest possible point.

Mr DAVID SHOEBRIDGE: But of course, Professor, it is not just in jails, is it, where the state comes in and separates babies from mums?

Associate Professor GRIBBLE: No.

Mr DAVID SHOEBRIDGE: In New South Wales we have this system of high-risk birth alerts where, if the mum has been flagged by the child protection agencies, literally the pregnant mum goes in the front of the hospital, the baby goes out the back and then mum comes out the front again. Can you talk about that?

Associate Professor GRIBBLE: I think we do not provide good support for vulnerable mothers. Pregnancy and birth—and becoming a mother—can be such a time of change and transformation for women. If they are provided with good support, then I think we can really make a very big difference. One of our biggest issues is that we do not have residential drug rehabilitation. We have so few places in Australia. There are 40 places around the country—that is all.

Mr DAVID SHOEBRIDGE: Is there any research that shows that, when a woman becomes pregnant and gives birth, whether or not that is actually a potentially highly opportune moment to take intervention to get everyone's life back on track?

Associate Professor GRIBBLE: Yes.

Mr DAVID SHOEBRIDGE: What is the research?

Associate Professor GRIBBLE: Yes, there is. We do not provide that support.

Mr DAVID SHOEBRIDGE: Could you provide details of that research on notice?

Associate Professor GRIBBLE: Sure. I will dig some out for you.

Mr DAVID SHOEBRIDGE: Because I have spoken to women who have had their child taken after they were on a high-risk birth alert. They are not even told they are on the high-risk birth alert. They are not given any opportunity to reach out and have the kind of support needed. The first they find out that there is a determination to take their child off them is when they actually present to hospital. You have some women wanting to present to hospitals outside of New South Wales, because they are so anxious about it.

Associate Professor GRIBBLE: Yes. I mean, the child protection system is a whole other mess. We intervene sometimes when we shouldn't, and we do not intervene when we should. It is really complex and difficult.

Mr DAVID SHOEBRIDGE: I am sorry I have gone over, on that high-risk birth alert angle. I suppose what I am most interested in is if there is good academic underpinning to say that this is actually a potentially

extremely positive opportunity to not only ensure that bub has mum, but also mum's life can be put on track—and do them together. That would be valuable information.

Associate Professor GRIBBLE: Yes. Especially with the first baby.

The CHAIR: Any further questions from members? In that case, Professor Gribble, thank you very much for appearing before us today. It has certainly been valuable to hear your perspective. I remember when my children were being born. Those memories do not leave you, but it is certainly a very important time in a woman's life, to say the least. Thank you again for appearing. I think you took question one on notice. If you were able to respond—and if we have any further questions—within 21 days, is that okay?

Associate Professor GRIBBLE: Yes, I would be very happy to. Could I just add one last thing?

The CHAIR: Yes.

Associate Professor GRIBBLE: I think it was alluded to in my submission, but not very clearly. When it comes to Jacaranda, one of the things that is lacking with the program there is the ability for women to do drug rehabilitation programs while they are there with their children. That is really something that we should be looking at, as well as residential drug rehabilitation for women with children in the community as well.

Mr DAVID SHOEBRIDGE: What would be useful would be for you to consider on notice the response that we had from Corrective Services about that, which was that Jacaranda Cottage has multiple families—multiple mums and babies—and that they have to be aware of ensuring that everybody is safe and protected. That is why they have a bunch of restrictions on women who can enter, based upon their offending profile or whether or not they cease having drug and alcohol treatment. I am not endorsing it. I am just saying that is the position from Corrective Services.

Associate Professor GRIBBLE: What we have around the country is that these mother and child units are being severely under-utilised. Those systemic barriers to utilisation need to be considered and solutions found.

Mr DAVID SHOEBRIDGE: Could you address that on notice? That's what I am hoping for.

Associate Professor GRIBBLE: I will do my best.

The CHAIR: Thank you again.

(The witness withdrew.)

KEISHA HOPGOOD, Managing Solicitor, Children's Criminal Practice, Aboriginal Legal Service (NSW/ACT), before the Committee via videoconference, sworn and examined

The CHAIR: Welcome and thank you for joining us via videoconference. Again, thank you for your submission. We might just start with a short opening statement, if you would like to make one.

Ms HOPGOOD: Thank you. I had not considered an opening statement, but if I do something off the cuff, if I could say I am very grateful that the Committee is looking into this issue. The Aboriginal Legal Service [ALS] is very grateful that they are looking into this issue. As we have noted in our submission, as I am sure others have, the children and young people of parents who go into custody are the hidden victims in all of this. As I said, it is really important that this work is done. It is really important that the recommendations are listened to and followed up on. I guess the other point I would like to make is that, again, as everyone would know, this topic and this area of concern has to be considered within the whole system. So many of the failures of our current systems—criminal justice system, education system, health system—can be individual within those systems, but also the failures of the systems to speak to each other and provide a cohesive and consistent response to the issues at hand. Thank you.

The CHAIR: Thank you. I might just take you to parts of your submission, if I may, on page 18 where you talk about amending the bail legislation, and issues related to bail, and ensuring that there is removal of punitive consequences for breaches of bail conditions. One of the issues that you would be aware of that has come up, time and time again, is the disconnect between the actual number of women, particularly, who end up going into remand but, essentially, then do not end up with a custodial sentence, which could have been dealt with at the bail stage, or indeed by way of diversion. Would you like to comment on that from your experience?

Ms HOPGOOD: Certainly. As you have said, there is a real disconnect between bail conditions that are appropriate for people to be able to meet, and those inappropriate conditions leading to breaches of bail for matters that, as you indicated, people may never have had a custodial sentence. So then we have women going into custody and again, those impacts—those far-reaching, lifelong impacts—on their children and their families. In terms of remedying that, the ALS has consistently submitted that there needs to be independent consideration within the Bail Act for a person's Aboriginal status, as to their commitments, their connection with culture and community, I should say, but also their cultural commitments. Although the Bail Act does have a reference to Aboriginality, it is within a list of other factors—youth, other vulnerabilities, and Aboriginality. It needs to be a standalone provision. Thought needs to be put into whether that is similar to the Victorian standalone provision. That needs to be developed in consultation with Aboriginal organisations. Most certainly, it is something that as an organisation, and personally, I feel very strongly about that there needs to be that standalone provision.

The CHAIR: I suppose there is also the special case where the person in question is a mother with a child. Do you think that should be in the conditions of bail as well, as a factor that is taken into account directly?

Ms HOPGOOD: Yes. Most definitely. I think that it would come up, in terms of the broader subjective situation of the person. But as a factor that the court must specifically turn their mind to, in conjunction with judicial education, it would be very helpful. The reason for that is: I have seen courts that have definitely been very sympathetic to a situation where there are children and young people involved, and that are going to be impacted by their bail determination. I have also seen magistrates that have said, "Well, the person should have thought about that beforehand." So I think it would highlight the importance of it, as an issue. As I said, a lot of judicial education around the impacts on the children and the young people, and intergenerational impacts, would go some way, I think, in assisting unnecessary bail refusals and inappropriate bail conditions.

The CHAIR: Can I also ask you about intensive correction orders? Have you had experience with that, and how that is being used in the system to divert both men and women from jail?

Ms HOPGOOD: I am sorry, but that is definitely a question I would prefer to take on notice. My area is working with kids. They do not have intensive correction orders imposed on them. I could certainly come back to you with that, but the value of what I would say now, I think, would be better met with taking that on notice, if that is possible.

The CHAIR: That is fine. I am happy for you to do that, and I suppose the same with other diversion techniques in the system, if you will—community service orders and the like. Is that something you have had direct experience with, with clients of the service?

Ms HOPGOOD: I can make some general comments about those, but certainly in terms of what is attached to those orders and it being the last step before custody, so of vital importance. The courts taking a view that it is suitable to impose one of those diversionary orders rests a lot on what kind of services would be available

within that community that are attached to that—with the community service hours, for example, and other programs. I think that is where we see a lot of our regional clients really disadvantaged. Through no fault of their own, the sentencing outcomes are available, but the supports around it are not. Secondly, we would like to see an understanding, particularly with female parents—mums—as to their other obligations, and not be putting in place conditions that really are setting them up to fail. Because, within that sentencing ladder, it is that last step before custody, you do not want to be deferring a custodial option. If the intent is to divert someone, then do not set them up for failure. I think we really need to acknowledge the situation that people are dealing with.

Just to go back to one of the questions you asked earlier, about the bail and the standalone provision, I think this point has been lost before in other inquiries, and I think it is an important one: that is, that the mandatory considerations that the court turns their mind to in determining bail do not apply to the police determination when they take breach action. So the Bail Act legislation, that provides all the options for police when dealing with a breach of bail, refers police to a much more narrow set of considerations. They are not the same considerations that come under section 18 of the Bail Act, and must be considered by the police and the court for a substantive bail decision, and must be considered by the court in any bail determination. I think that is something we have tried to explain before, and have not always gotten across. I think it is an important point that, when the police make a determination about breach of bail, they are not guided in the same way that the courts are.

The CHAIR: So that early exercise, if you like, of that discretion—the earlier the better to ensure that you do not end up further down the system, so to speak, is really what you are recommending.

Ms HOPGOOD: Yes. I recommend two points: that the standalone provision comes within section 18 as a standalone provision, but also then, within breach determinations in the legislation, it is also included in the way police make their determinations about breach action or enforcement action.

The CHAIR: Okay. The other question I wanted to ask you, and I am sure my colleagues might follow up on this, is in relation to the statistics which show that many women are sentenced for short sentences—six months up to a year—and the impact of that on their families and indeed whether we should, as a parliament, be reviewing the short sentences and whether or not we should be deleting some of them, to ensure that we do not go down that pathway and imposing very significant imposts and hardship on families, particularly in minor offences or secondary minor offences.

Ms HOPGOOD: Absolutely. The research is there. We know the impact that custodial sentences, full stop, have. We know what jail does. We know that it exacerbates vulnerabilities and disadvantage that is already present. So, as long as there are protections that are put in place, to make sure that if the court was of the view that the threshold was crossed - in terms of needing to impose a custodial penalty - that they did not then just impose a more lengthy one—absolutely. Who does that benefit to have a short custodial penalty? There is no benefit to the community. There is a monetary cost to the community. We know those links between short periods of remand and, also, time in custody, and loss of housing, loss of employment, loss of families, and breakdown of families. Most certainly.

Ms JODIE HARRISON: Thank you, Ms Hopgood. One of the points that you make in your submission is that one-fifth of Aboriginal children in New South Wales experience maternal incarceration. Do you know what kind of percentage of those children would not be within travelling distance of their mother?

Ms HOPGOOD: I would not be able to give a percentage to it. Again, I can make some inquiries, but I can tell you that, with the kids that we work with, it feels like a significant proportion. There is a few things going on there. Sorry, if you could just repeat the specifics of the question again.

Ms JODIE HARRISON: How many of the children who have their mothers incarcerated are not in easy travelling distance to their mum, or not likely to see them during the time of the incarceration?

Ms HOPGOOD: Certainly the majority of our kids who live in regional areas are not going to be in easy distance, and I think we need to think about easy distance, too, in terms of what that means for a child. So that is still dependent on someone facilitating that. If I think about some of the young people I work with out at Moree and Boggabilla, there are issues with adults having licences or cars, and then we are taking it to that next step, where it is a child relying on someone to facilitate that. It is a huge issue.

Ms JODIE HARRISON: What is the experience of those children? What happens to them?

Ms HOPGOOD: They do not see their families.

Ms JODIE HARRISON: Who becomes their primary carer?

Ms HOPGOOD: There are kids who would go into an informal kinship care type of arrangement—so the community would step up, or their aunt or an uncle or someone will step forward. Others end up in the care system and, again, we know that care to prison pipeline. There are a lot of young people out there who would not know how to even access support to be able to facilitate contact with their families. It is something we have thought about. If you think about in COVID, there was a lot of movement towards not in-person visits—audio visual link [AVL] and people being able to use their personal devices. Something that we have considered to support kids to visit their parents is, if we could develop—not as the first option; in-person should always be there—an option where there is an Aboriginal community organisation that could be appropriately resourced to support kids to have online visits with their family in custody.

So it is not just about setting up the system—as in, "We are going to allow it"—it is also about then supporting the kids to come into a service, where there is not the stigma attached to it that there might be in a mainstream organisation—for example, like the Aboriginal Medical Service. If they were resourced, or in conjunction with SHINE, to be able to facilitate visits like that, that would be a really good way to support children and young people in that situation. The advantage of that would also be that, for some parents—I have not yet met parents who have not wanted to have contact with their children—but some are uncomfortable with their children coming to detention centres. So the main problem is obviously geographical and other barriers, but there are also families who do not want their kids in a jail. Looking to alternate means of visits, I think, would go some way towards supporting these kids.

Ms JODIE HARRISON: We heard from a number of incarcerated parents who really enjoyed the AVL visits because it was a way of them seeing their own homes as well. But access to technology for the children is a big issue from your point of view, is it?

Ms HOPGOOD: Well, they all have phones, so there is not, in that sense. It is about—I guess, they are children, so it is about them being supported to do that, and to be in a space where they feel comfortable to do that. I do not think it would be as simple as opening up the local DCJ office or whatnot; I think it would be about an Aboriginal organisation or an Aboriginal worker who could help facilitate those visits, if they did not have someone in their family. We know that, in times when there is family breakdown, that there may not be someone in the family who is going to help facilitate that.

Ms ROBYN PRESTON: How connected are you to all the agencies, and is there a more streamlined approach that we could take?

Ms HOPGOOD: How connected is the Aboriginal Legal Service organisation to—in terms of our role, it is something that, in the children space, we are really trying to develop. We are not resourced for it; we run on the smell of an oily rag, so to speak. Something we are trying to develop in our children's practice is our visiting legal service. Through that we have access to all children and young people across the state and, through that, we are developing a civil health checklist, which would include questions as to—and we know how many young people in custody have parents in custody. We will be able to check in with that, and then talk about that contact, and talk about supporting them.

In terms of the organisations that we are linked with, we have a very strong relationship with Youth Justice; the ALS has a good working relationship with Corrective Services; and Legal Aid have a civil team that we are in contact with, and do a lot of that work with. So those relationships are there. I think what we sometimes find is that, as I said before, it is too siloed. To have some guiding principles around this all organisations could subscribe to would be of benefit, so that everyone's on the same page. Otherwise, whether it is the ALS, or a particular care provider, you might have different ideas about what is in the best interests of that child. If there were those guiding principles that included the wishes of the child, and the importance of that contact, and encouraging and supporting contact, then, again, it will go some way to strengthening those relationships and making sure we are all on the same page.

Ms ROBYN PRESTON: Just a further question, if I could, Chair. I am just conscious of the advocacy that you have to ensure that those short-term sentencing—that there is an alternative to that, rather than have a woman in custody and separated from her child. If the justice system deems that that is the safest space for the child—that they should be separated—how then do you see a reconciliation there? How can we deal with that, and still have a connection with the mother and child in some way?

Ms HOPGOOD: Sorry, I do not understand the question. Do you mean in the sentencing of the mother the court determines that, although they are considering the impact on the child, they do not actually think they should—

Ms ROBYN PRESTON: If you have a woman who is sentenced to less than 12 months in prison, the advocacy through some of the groups, including what I heard you say earlier, was that it is important to have that

connection still with the child. But if the courts see that it is not safe for the child to have that physical connection with the mother, what is another way that they can still connect, given that a young infant cannot really react to an AVL visit, for example?

Ms HOPGOOD: It is an interesting question. I think it is probably a question I would want to take back to our care and protection team and, again, take that on notice. I think what would be important, in that situation, would be that there was still an advocate for that child—whether it was an ALS lawyer in conjunction with a carer, or an identified family member—who was responsible for still checking in on that; still maintaining that information sharing, so that it could still occur, and there was a still a connection in some way. Whatever those reasons were that the court was of that view, that they were addressed, and there was still some foundation and those links maintained between the parties.

I think what I would worry about is kids that are taken into care. Again, when I talk about those guidelines, I understand that there are some protections in place, and some obligations on care providers to facilitate moving away from a situation where the court has not expressed that view. I have certainly had the experience where we have had to really push strongly and go back to DCJ, to have care providers step up and facilitate contact. My experience is that it is not necessarily with—particularly with older children in care placements—it does not necessarily flow that that visit and that contact is supported, facilitated and encouraged.

Mr DAVID SHOEBRIDGE: Thank you, and thank you to the ALS for the work you do throughout the year, and also for your submission and attendance today. We have had other submissions suggesting that section 21A of the sentencing Act should be amended, which talks about the aggravating and mitigating factors of the sentence. The very clear proposal was to include, as one of the mitigating factors that should be taken into account, the fact that a defendant has parenting responsibilities and is a caregiver, to ensure that, at least at some point, there is a consideration of the best interests of the child. Do you have any view on that?

Ms HOPGOOD: I would definitely agree with that submission. It is relevant to the sentencing exercise. There is some room for consideration, as to the impact on third parties in the sentencing exercise, but the bar is so high. I think there are two things at play: one, there may not be a sufficiency of understanding as to the very real and very damaging impact of a parent going into custody on that child and their trajectory; but also, as you said, it is including of the specific factor within 21A. I think that it needs to be something that the court considers, not just as a factor, but then in the overall sentencing exercise, as to the weight to be given to the different principles of sentencing. It is a failure of the system that we do not have enough alternatives to it, that we then fall to imprisonment as a default. It is a failure of the system that people are coming back before the system, because certain disadvantages and vulnerabilities have not been met. The legislation is the tools that the court has to deal with, and an advocate in court can only do so much with only the tools that are there. To provide for it specifically in legislation, it would go some way towards assisting kids.

Mr DAVID SHOEBRIDGE: I might just invite you to have a look at the submission from Yfoundations, which actually sets that out, and then ask whether or not the ALS would be willing to take on notice how they thought that could be best included in the legislation. One option would be it could just join that long list of mitigating factors in the sentencing Act. The other option would be it would be a standalone provision that actually expressly incorporated the best interests of the child and the rights of children in the sentencing process. I would just be interested on what the ALS's thoughts were, in how it could be best incorporated.

Ms HOPGOOD: Certainly. We didn't address that in our submission as far as I am aware, so I will take that on notice and certainly get back to you on that. I think—

Mr DAVID SHOEBRIDGE: And—no, you go. Sorry, Ms Hopgood.

Ms HOPGOOD: I was going to say I think, as a first port of call, and noting that I will come back to it—I mean, anything that is a standalone provision highlights the importance of it, and we know how important this is. If the other principles of sentencing can be met, taking into account within a principle that places the best interests of the child at front and centre, then that is in everyone's interest.

Mr DAVID SHOEBRIDGE: Yes, and maybe whether or not there is something like a reverse onus, in cases where the defendant has the primary caregiving responsibilities. Maybe there is a substantial threshold that has to be overcome, especially before the court would consider a short sentence of six months or less. Again, I would be interested in the ALS's considered thought about that.

Ms HOPGOOD: Certainly. I will most certainly take that on notice and follow that up.

The CHAIR: I might just refer to page 17 of your submission. I just wanted to understand particularly, before I go there, just how many—well, whereabouts are you now? Whereabouts are you calling from?

Ms HOPGOOD: I am in Redfern on Gadigal land.

The CHAIR: Okay. How often do you in Redfern deal with people in rural and regional areas? I just want to understand their access to your support services but also the practical issue of wraparound services for people in rural and regional areas, particularly where that comes into play in the justice system.

Ms HOPGOOD: Certainly. We have offices across the state, and we have offices in regional areas, not everywhere we would like to be. Most certainly, as with most services, it is a fact that people within the city are better supported—or more broadly supported, I should say—in terms of a holistic service. So here there is only more ability for us to access children and young people whose parents are in custody, through our visits and whatnot—we do not have that same geographical distance that you have in the regional areas—but there are also services for us to refer them to. So kids and young people in our regional areas are most certainly disadvantaged. They are disadvantaged, in terms of the services available across the board.

The CHAIR: Okay. Any further questions?

Mr DAVID SHOEBRIDGE: I had a question just on budget.

The CHAIR: Yes.

Mr DAVID SHOEBRIDGE: The ALS budget—do you have a separate budget to deal with care and protection matters, or is that just coming out of the ALS pie?

Ms HOPGOOD: I think it comes out of the ALS pie. If I am incorrect on that, I will get back to you.

Mr DAVID SHOEBRIDGE: If the ALS is representing a woman in criminal proceedings and it becomes apparent very early on that either she has been denied bail or facing a custodial sentence, what are the arrangements under which ALS will then act in the care and protection matter for the kids? How does it work?

Ms HOPGOOD: In terms of the practices and the way they are set up, they are kept separate, so that we can have—we, no doubt, represent people within our crime jurisdiction that we may also have represented at some stage in our care and protection jurisdiction. But to prevent conflict issues, the practices are kept separate.

Mr DAVID SHOEBRIDGE: In terms of the financial impact on the Aboriginal Legal Service, every time an Aboriginal mum is put into jail and the kids are taken, that then means it is likely you are going to have to have a separate care and protection matter opened and, again, further stress on the ready stretched ALS legal budget, I assume.

Ms HOPGOOD: Absolutely. I will give you an example of where there would be, taking into account concerns about conflict issues and mitigating any potential issues. If we could provide a service, and we were resourced to provide a service that was able to represent—if we picked children, let's say 10 years of age to 14 years of age, or even longer, for those kids, across the board, it would mean that we could provide a holistic service. So that when we have a young person, and we are communicating with our care and protection team, as well as our crime team, about a young person, whether they came to our attention either because of a criminal or a care and protection matter, we would be able to then provide that wraparound service. We would be able to look at any education issues that were going on. We would be able to advocate for them, not just in court, in terms of care and protection matters and crime matters, but advocate for them in terms of the schooling issue.

A lot of our families do not know necessarily what their rights are, or how to assert those rights in the education realm. So, we would be able to do that across the board. We would be able to share that information. Most importantly, we would be able to obtain that information from the kids. It is an organisation that they trust. It is an Aboriginal-controlled organisation. It is an Aboriginal-run organisation. The kids are able to talk to us and have a privileged relationship. So they can also talk freely and know that that information is not going to be shared against their wishes, or even against their interests. To provide a holistic service like that is definitely the way legal services should be moving. It requires resourcing though.

If I can just use the example of children, another example is we represented a young person—and this is a resourcing issue. Her mother, her Aboriginal mother, was represented by Legal Aid; we were not available at that court. She was represented by Legal Aid for a situation where she had been at a service and impulsively, opportunistically, had opened a window and put her hand in there to take something. She was charged with attempted break, enter and steal, so a maximum penalty of 14 years. She was bail-refused. We then represented her child who was at home at the time; she has two children and a toddler. When she was bail-refused, Family and Community Services [FACS] or Department of Communities and Justices [DCJ] got involved, when they heard the news, and contacted police to do a welfare check. Police got around there to do a welfare check. They saw the children at home. The two teenagers had not been going to school because they were looking after their younger sister.

The child was on bail, unfortunately, with a condition to attend school, and so she was arrested. What happened was the two teenagers went into police custody for not being at school, and the toddler, who was about 18 months, got taken into care. Legal Aid did not know about the situation with the kids. It was only when we were able to speak with the kids that we were able to follow-up with mum, and put in a Supreme Court bail application that she was released. It goes without saying, you cannot undo that damage. You know, you cannot undo that little baby being removed and you cannot undo that kind of trauma to the two older ones.

Mr DAVID SHOEBRIDGE: But we could put in an express requirement on a magistrate or a judge to consider the kids, consider parenting arrangements, and consider the best interests of the kids before mum gets bail refused, sentenced and put into jail? We could do that?

Ms HOPGOOD: We could do that, absolutely. I think Legal Aid and the ALS are both fabulous institutions, organisations, but the next step is having that parent feeling able to divulge the information about the children. I think again the importance of having representation by an Aboriginal organisation is also something to consider. I think in that situation there can be a fear sometimes of, even if I do raise this in court and I am still going to get locked up, what is in it for me? They might be hoping that they go into custody, get on the telephone, and they are able to organise their own arrangements for the child or young person, whereas if that is brought to the attention of the court, what is going to happen to the kids? Again I think the importance—

Mr DAVID SHOEBRIDGE: Yes, of having an Aboriginal-led, trusted organisation that can provide the wraparound support.

Ms HOPGOOD: Absolutely, and when that is not available, or even in conjunction with, Aboriginal staff at court houses, Aboriginal support staff.

The CHAIR: Thank you for joining us today and thank you for your detailed submission which is very, very useful to the Committee. You have taken some questions on notice and we might have some more as well. Are you able to respond within, say, 21 days?

Ms HOPGOOD: Certainly, absolutely. Is there time for me to make just one quick comment?

The CHAIR: Of course.

Ms HOPGOOD: In our submission we refer to different courts for Aboriginal people. We have the Youth Koori Court but, for adults, we are looking at the district court, Walama Court. I just read a transcript today, just before I came here. You will see in our submission that, when we have spoken to Aboriginal mums in custody, they have talked about not being understood, and not being heard. And that is what an Aboriginal court like Walama can provide. When I read the transcript just before I came in, there was such a stark example of that. It was a young mum, who was there with her baby at court, who was terrified about losing her baby. The court asked the Salvation Army lady to hold the baby, and the mum was very, very distressed. She made the comment to the court, "You would understand if you walked in my shoes." The way that was received, and the way she was spoken back to was, "Don't you say that to me; you can't judge me," was how the court took it. That was a really stark example of the barriers within our current, familiar and traditional criminal justice system, and in the way I look at it, in terms of that cultural safety, feeling culturally safe, and that person's experience of that criminal justice system, would be so much better served by a court like Walama.

Mr DAVID SHOEBRIDGE: Can I say, that reminds me of repeated stories that I have heard, when you talk to Aboriginal people in community, of whenever one or two white cars turn up, all the kids run because of the experience, the intergenerational trauma of having kids taken. I think Aboriginal-run organisations understand that, don't they?

Ms HOPGOOD: Absolutely. But even then, that is something that we are still learning every day. I have been there now for a couple of years, and for the first time ever I got a psychological report for a young person being sentenced by a very experienced and very good psychiatrist. It was a good report, but then some other information came from this young person who divulged some other incidents. I then got an Aboriginal woman to do a report with him, and even after all this time, and even knowing what I know, the difference was phenomenal. The difference of what he said, how he opened up and, therefore, the information that was able to be put in that report and was relevant to the court, even after all this time, it was an absolute learning experience for me.

The CHAIR: Thank you. We will send those questions through to you. Thanks very much for joining us today.

(The witness withdrew.)

(Short adjournment)

KAT FARRAR, LEAP Solicitor, Wirringa Baiya Aboriginal Women's Legal Centre, affirmed and examined

TIM LEACH, Executive Director, Community Legal Centres NSW, affirmed and examined

PATRICK O'CALLAGHAN, Principal Solicitor, Western NSW Community Legal Centre, Community Legal Centres NSW, before the Committee via videoconference, affirmed and examined

The CHAIR: I now welcome representatives from the Community Legal Centres NSW. Thank you all for appearing before the Committee today. It is terrific to see you, particularly audiovisually from Dubbo. Perhaps we could start with a brief opening statement if you wish.

Mr LEACH: It is great to be here today on Gadigal land, and I pay my respects to Gadigal Elders past and present. I also thank the panel for the time you have allocated to speak with us today. You must be exhausted after a day of listening to people, so thank you for your time.

The CHAIR: It is invigorating.

Mr LEACH: Is it. That is great to hear.

Ms JODIE HARRISON: We are learning lots.

Mr LEACH: That is fantastic. I thought I would briefly describe how we all fit together. Community Legal Centres NSW is the peak organisation for 40 community legal centres across the state. Our membership is pretty diverse, but it can be broadly divided into two types of members. Firstly, generalist centres that work across a wide range of legal issues for a particular geographic community, and the Western NSW Community Legal Centre, where Pat is from, is an example of that kind of member. The other type of member is a specialist community legal centre that works with a particular demographic or on a particular set of issues, and Wirringa Baiya Aboriginal Women's Legal Centre is an example of this kind. It provides services to Aboriginal women right across New South Wales. Another example of this kind of member is the Women's Legal Service. I understand they will be giving evidence at some point as well. That is great that you will get to hear from them as well.

Collectively, our 40 centres provide free legal assistance to over 55,000 people every year, mostly to people experiencing financial hardship, and often in combination with some form of discrimination or other disadvantage, often family violence. Our centres focus on family and civil law, although some have limited criminal law practices. Many centres work in child protection, and in domestic and family violence. Our submission has been informed by the stories of the thousands of people we assist every year, and I want to thank the members of our Prisoners' Rights Working Group, and our child care and protection network, for their contributions to our submission. It is so terrific that this Committee is interested in the welfare of children of imprisoned parents. We think this requires reflection on whether their parents should be in prison in the first place, and we think that many people in prison in New South Wales should not be there.

We think we should take every opportunity to reflect on whether people in prison deserve to be there, and whether perhaps people are being caught up in our prison system, in circumstances where imprisonment is not really serving anyone's interests. We welcome reflections on imprisonment that consider the full range of harmful impacts of imprisonment, including the impacts on children. Imprisonment exacerbates risk that children will be removed from their families, and sometimes from their entire communities, and once kids are in the out-of-home care system they are statistically at much greater risk of all sorts of negative outcomes. We know that many parliamentarians are very concerned about the high rates of children being removed from their families, particularly Aboriginal children. There is rightly a focus in this place on the factors that heighten these risks.

Imprisonment of parents is one of those things. We also recognise that many parliamentarians are very concerned about the appallingly high rates of incarceration, and mindful of the damage that this does to Aboriginal children and their communities, more generally. There are things that can be done to reduce these rates, and making those changes will have spin-off benefits for children and young people. In our submission, we have outlined some great programs being run by community legal centres that provide support to children of imprisoned parents, and my colleagues who are here with me today will be happy to talk more about those programs.

The CHAIR: Are there any further contributions as an opening statement?

Ms FARRAR: I have a short statement.

The CHAIR: Just quickly.

Ms FARRAR: I would like to acknowledge the traditional owners of the land on which we are meeting, the Gadigal people of the Eora nation, and pay my respect to Elders past, present and extend that acknowledgement

to any Aboriginal and Torres Strait Islander people in the room here today. I would like to acknowledge the excellent work of the many Aboriginal women who are working to advocate for incarcerated women and their children, and acknowledge the significant trauma, both personal and intergenerational, that Aboriginal women in custody have experienced. Our submissions are informed by our clients, our Aboriginal colleagues, and by our Aboriginal board.

Wirringa Baiya Aboriginal Women's Legal Centre is a statewide community legal centre run by Aboriginal women to provide legal advice, casework, and nonlegal support to Aboriginal and Torres Strait Islander women and children in New South Wales who have experienced domestic violence, child sexual assault, and adult sexual assault. We provide a culturally safe, trauma-informed, and gendered service. We also work a lot with Aboriginal women across the state who have been or are in custody. In 2009, Wirringa Baiya, Western Sydney Community Legal Center, and the Women's Legal Service established the Legal Education and Advice in Prison [LEAP] program. It was in response to the high level of legal need amongst women in custody for family and civil law services. Through LEAP, Wirringa Baiya provides free legal advice and casework service to women in Sydney's metro centres, and our work is predominantly about the children of the women, whether in the context of family law, or care and protection.

We find that many of the women in custody, who have had children who have been removed, do not know where their children are; or, if the matter is ongoing in court, many lose contact with care lawyers, if they have one. If matters are finalised, women do not have copies of orders. Most women attending the LEAP program also get advice and assistance in relation to domestic and/or sexual violence that they have experienced. Despite the need for legal advice and advocacy for women in custody, particularly in relation to their children, this work is unfunded, and we welcome the opportunity to be part of the conversation about improving outcomes for Aboriginal women and their kids.

The CHAIR: Thank you very much, Ms Farrar. Mr O'Callaghan, would you like to give a regional perspective?

Mr O'CALLAGHAN: Yes, just briefly. Firstly, I would like to acknowledge the traditional custodians of the land from which I am coming from today, the Tubba-Gah people of the Wiradjuri nation, and pay respect to Elders past, present and emerging. Just by way of brief background of our service, we cover a large area out this way, close to approximately 200,000 kilometres, servicing regional areas such as Bourke, Lightning Ridge, Walgett, and Wellington, and everywhere in between. It is quite a vast area. We certainly see, in this context, a lot of issues in relation to children, in relation to AVO proceedings, where they have been placed on AVOs, where there are domestic violence situations, which has a direct and often significant impact on their ability to potentially continue a relationship with the offending parent who is then incarcerated. The other issue that we see quite significantly is in relation to children in the out-of-home-care system. It is significantly and disproportionately Aboriginal children who then have, as Tim Leach alluded to previously, a lot of significant issues that flow from that negative context.

One of those is, in our experience—there are two things. One is a significantly decreased opportunity to have an ongoing relationship with their parents and, second—which is becoming an increasing issue over recent times—is around the age of criminal responsibility, where they are then more likely to end up and engage in a criminal justice system, because they have been displaced, or have lost an opportunity to have a relationship with a parent or parents who are incarcerated, and are more likely to then fall foul of the law, because they may be of a young age. With New South Wales having the age of criminal responsibility still at 10, we see that they are often more exposed to the criminal justice system as a result of those things. The other thing, briefly, is issues in relation to post-release support for parents who are in prison, and the opportunity to receive assistance once they are released to be able to re-engage within the community, effectively and as helpfully as possible, so that there is opportunity to avoid re-offending and ending up back in custody. It is somewhat problematic as well. Thank you.

The CHAIR: I will direct my first question to you, Mr O'Callaghan. We were out Dubbo way last week, to the Wellington—or, I should say, the Macquarie facility, but at Wellington. Do you have much contact with that facility, or with families in that area that have parents at that facility, or carers?

Mr O'CALLAGHAN: Yes. We provide outreach services to Macquarie Correctional Centre and Wellington Correctional Centre once a month, to assist inmates in relation to family and civil issues, so we are out there quite regularly, and in between, we often have some form of communication with the various staff from the prison facilities to facilitate assistance that we are providing to those inmates along the way. So it is quite often that each month we might see anywhere between 10 to 20 inmates on each visit.

The CHAIR: Could you give us a feel for the feedback you are receiving from those inmates and their families?

Mr O'CALLAGHAN: Yes. I mean, one of the significant issues is isolation from their families out this way. We often are assisting clients in prison who have families all over New South Wales, not necessarily just out this way. Because they are both maximum security prisons, they are heavily utilised. So isolation is certainly a significant issue for a lot of the clients—especially Aboriginal clients—with families who might be from out this way, such as Bourke and Brewarrina and Walgett, and it's still several hundred kilometres for them to be able to travel and see their family who are incarcerated, which is often extremely prohibitive. So, even in situations where they might be fortunate enough to be able to have it, because there are no apprehended violence order restrictions or other things, the isolation is certainly an issue that prevents, or reduces, that issue.

We often see inmates—in relation to the family law context—who want to have a relationship with their children, but are often prevented from doing so, either because of the other parent deciding not to facilitate that contact, or not wanting that contact to occur in situations where we would form a view that it might be appropriate for them to have a relationship with the child—you know, there are not necessarily those safety issues or safety risks that sometimes might be at play. The family law system itself makes it very difficult for them to get an outcome that facilitates that relationship, to have ongoing connection with their children.

The CHAIR: I was wondering, too, in relation to obviously the difficult time that inmates have been through with COVID and that probably deepening that sense of isolation, have you had feedback in relation to tablets and the use of audiovisual, and any other response from inmates that you have visited over that time?

Mr O'CALLAGHAN: Not specifically. I could take that on notice, if you like, and follow up with my colleagues, but we have not directly—they certainly have not fed back to me directly anything, one way or the other, around that particular issue.

The CHAIR: In relation to the submission—this might be a general question but there are some excellent recommendations that you have put forward. One that stood out because of, I suppose, the history of things in New South Wales, was recommendation 4: that there be, if you like, no new private prisons and that the existing private prisons should be actually given back to the Government. Could you perhaps expand on that and your rationale for that?

Mr LEACH: I am happy to take it first but, Pat and Kat, please jump in if you want. As we tried to make the point in our submission, the management of prisons is such a complex and challenging area. It is full of incredible risk, and it is undeniably a heavy burden, but we believe it is a burden appropriately shouldered by government, and that only government should be taking on and exercising those responsibilities. It is complex for all of those reasons, but the capacity for prisoners to advocate for themselves is quite limited. The risk of harm to people within the prison system is well documented, and needs constant monitoring. It just is not, we believe, the kind of function that you should be subcontracting to the private sector, where there is a profit motivation. In our view, it is a burden that is appropriately shouldered by government alone.

Mr DAVID SHOEBRIDGE: What about the impact that is created where you have, in Australia's case and in most of the cases where you have seen private prisons operate in the sort of Anglo sphere, if I can point to that—England, Canada, the US, Australia. You see large multinational corporations actually getting contracts—in Serco's case, over more than a decade, for billions of dollars. Then there is the risk of having those corporations want to exercise influence on politicians to make those facilities profitable by pushing a law-and-order agenda. Do you see that kind of concern?

Mr LEACH: I certainly have that. Yes, I share that concern. This is a complex policy area, but it is an area that gets a lot of sensational attention, I would say. I think we have to take a very reasoned and cautious approach to these policy discussions. We are concerned about the kinds of engagements of interests with big profit motivations. We do not think they should be in those conversations. And we are mindful that prisons are being built, even now, when we would make the case for different strategies that would divert people away from the prison system.

Mr DAVID SHOEBRIDGE: One of the recommendations from the Royal Commission into Aboriginal Deaths in Custody was to ensure that, wherever possible, Aboriginal people are put in—if they have to go to prison—prisons that are on country and near family and near community. The New South Wales government has arguably gone exactly the opposite of that by shutting small prisons and opening this 1,700-bed, mega private prison in Grafton. Do you have any views about the impact that has on Aboriginal people, in particular, remaining connected to their family and remaining connected to country?

Mr LEACH: I do, but would Pat or Kat like to comment from their own experience?

Mr DAVID SHOEBRIDGE: It probably particularly impacts Pat given the geographical distribution.

Mr O'CALLAGHAN: Yes, certainly. We gave evidence last year at the inquiry into First Nations people in custody, and it certainly is an issue. We were previously, and I personally was, outreaching to Yetta Dhinnakkal correctional centre, which was about 330 kilometres north-west of here, towards Brewarrina, which was specifically for young Aboriginal males in custody. It was certainly an opportunity for a lot of families to remain connected to their children—and these are young males too, typically between 18 and 22 or 23—with opportunities for families to remain in touch with them, because of being located close and on their own country—for a lot of them, not all of them.

But there was also, beneficially—and I have not had a lot of direct conversations with inmates around this—opportunities for them to address a lot of their issues. A lot of them obviously had trauma issues from throughout their life, and they were provided with various ways to be able to positively engage in some healing processes. That was through direct access to things such as counselling and psychological support, but also other things such as re-engaging—or for some of them, the first time, through what they were telling me, is the opportunity to engage in cultural learning, because of the expertise and Indigenous workers that were directly onsite with them; and also, significantly, opportunities to educate themselves around various things, including numeracy and literacy, but also opportunities to participate in agricultural courses, heavy machinery courses—a lot of them got their white tickets while they were in there, and were able to then get out and obtain employment on road gangs and those sorts of things—and also construction courses.

These were formally run by TAFE, who came in and ran these TAFE-approved certificate courses that gave them these qualifications for when they were released. I had contact with a few of them over the years out in the community on other outreach work that I was doing. I would have great conversations with them around things that they were then engaged with, in particular workwise, which then provided opportunities for them to be able to thrive better socioeconomically within the community, and make different choices, and end up following far healthier career paths. That was from the opportunities that they were given by being in a specific Aboriginal prison.

Mr DAVID SHOEBRIDGE: Kate, did you have something to add?

Ms FARRAR: Yes, I would add that definitely having the 1,700 person prison in Clarence affects Aboriginal women being held on country. There are very few prisons for women, and most of them are clustered in the Sydney area, so it would be harder to be on country. But it impacts a lot on children who are scattered across the state, often under the care of the department, who will not fund getting children to have contact with their mums. Clarence is a good deal further away than Sydney for a lot of people, so the financial burden of visits is a lot more difficult.

Mr DAVID SHOEBRIDGE: And even if you get to Grafton, it is another 20-kilometre trip out to the prison and there is no public transport.

Ms FARRAR: Yes.

Mr DAVID SHOEBRIDGE: It is almost designed to break connections between Aboriginal parents and kids if the parent goes into jail, isn't it? It is almost designed that way.

Ms FARRAR: Yes, it seems that way.

Mr O'CALLAGHAN: Can I just add too that that was another significant thing: that opportunity to have access to their children, for those who were fathers, whether they were able to see their kids on a weekly basis, because they were still on country, and locally based. For those men who could not do that, for various reasons, or because they sometimes were telling me they were going to be moved to a different facility, it had a significant impact on them, in particular their mental wellbeing, around just being able to have that connection.

Ms JODIE HARRISON: A question about AVOs and children being listed on AVOs, particularly no-contact AVOs, can you just talk me through the process on how that actually happens? To me it reads like it is almost an automatic thing, so I would like to understand that.

Mr O'CALLAGHAN: I am happy to speak to that first, if no-one else is going to jump in. This is based on our experience out this way—I will first just make that clear. I cannot speak on a statewide perspective. But certainly it has been the experience of a lot of our clients—and I should indicate, too, that we also operate a domestic violence service, as part of our legal centre, that works specifically with women and children and victims of family domestic violence. So I am bringing the perspective of both sides of the coin, so to speak, in relation to this particular issue.

We have seen for quite some time in both our generalist service, including the prison outreaches, and the domestic violence service, where we are assisting the victims, where AVOs are being taken out because of a domestic incident, and as a result of that the children are placed on the AVOs quite frequently, and the AVOs are

often no-contact AVOs. Those AVOs are being taken out by the police. So the direct consequence of that is if—and in those cases, for the purpose of today, where the parent is ending up in prison as a result of those incidents, and the AVO being taken out, quite often, irrespective of what the dynamic of their relationship might be, we are seeing both parents, and in particular the mother, still wanting the child to have a relationship with the father. I am using gender specific terms because that is the reality, primarily, of the demographic of the offenders and the victims out here.

That being said and done, because there is this AVO in place and these conditions on it, it then means that the child cannot see their father in prison, because it has a strict no-contact condition attached to it. In order to shift that, the police need to agree to it, and we often see that they do not do that, and the victim themselves is telling them that they want that to occur. Or, obviously, it is then utilised in the family law system, which is far from an effective and quick way of being able to get an outcome that allows that opportunity to happen for that contact, in those situations. And we are seeing it a lot. We are not seeing just a few here and there. It is a situation that, especially, our domestic violence program is seeing on a weekly basis in relation to this particular issue.

Ms FARRAR: I would add to that that, as it is the police who are taking them out, there are differences in different areas. We see a lot for Aboriginal women that—again, so it is sort of similar in that the police are making these decisions, without consulting with the victim and the perpetrator about how it works. But we have problems, also, with the police putting children on AVOs, where children have been the victim of violence from the perpetrator but are not added to the AVO. They are not protected under it, except for the mandatories.

Mr DAVID SHOEBRIDGE: So it is not working at both ends. Sometimes the kids need to be protected and they are not.

Ms FARRAR: Yes.

Mr O'CALLAGHAN: Yes.

Mr DAVID SHOEBRIDGE: And sometimes, in fact, both parents might think it is best for the kids to have contact and that is not happening.

Ms FARRAR: Yes.

Mr DAVID SHOEBRIDGE: The key thing is the lack of some kind of policy or procedure with police, where they consult with family and take the kids' interests into account. That is what is missing, is it?

Ms FARRAR: It is quite a paternalistic view—

Mr O'CALLAGHAN: Yes.

Ms FARRAR: —of making an AVO for someone, what they think is right for somebody, perhaps, and it does not work for the family, yes.

Mr O'CALLAGHAN: Yes. Certainly, out this way, a very paternalistic approach is the experience that clients have shared with us, in terms of the police making those decisions. Often what we are hearing from the victims is, "I just wanted them to defuse the situation," or, "I just wanted them to be that circuit-breaker, but I am not concerned for my safety," or, "I want to continue to have a relationship with that person." Maybe they might say, "I'm happy with an AVO, but just put condition 1 in it or something," a mandatory condition, which is just not to assault, molest, harass or threaten, those types of conditions. It does not need to be the extreme of a no-contact order every single time.

That is a very common story or theme that we are hearing around this issue, because it just does not marry up with the reality of their life, and the circumstances of what they are dealing with. For some clients who are our victims, they are saying, "I don't have any other support, I have no-one else to help and if I genuinely thought he was a risk to the safety of my children, I would never let him see them or, certainly, never let him see them unsupervised." But they have a very different view to that which is formed by the police. Some of them have described that they feel it is a continuation of the domestic violence, so to speak, because there is now somebody else who has just stepped in, and is not hearing them and not listening to them, and making decisions that affect them.

Mr PETER SIDGREAVES: My question is around the LEAP program. Can you talk to some of the benefits of the program, but particularly how it helps imprisoned parents?

Ms FARRAR: Sure. For the LEAP program most of the work is done in and about their parenting, so around their children, whether it is in family law, or care and protection. Very regularly, I will sit down with a woman and she will say, "I don't know where my kids are. I don't know what's going on." So the first step is just working out who has PR [parental responsibility] over her children, where are they, who is looking after them,

what orders are in place, are orders in place, is court on foot at the moment. and she does not know about it—she has been taken out of the picture. So just establishing what is going on, to start with. I think that helps women, clearly, to be part of the proceedings, when they want to be a part of the proceedings, and want to be involved in their kids' lives. So there is that first groundwork we do in LEAP, to do that.

Other ways that we work with Aboriginal women who are parents is for when they get out and they want to pursue, perhaps, a section 90, and things they need to do, and work with them to get them into programs and the supports that they need, so that they can do the things they need to do, so they can be the good mum for their kids. We also work with pregnant women and help them with working out, are there any risk factors? Can she keep this child when she gets out of custody? If not, are there any suitable family members, so this child is placed with kin and it is not going into the system and then sort of lost to the system, I suppose? So that helps in that sense as well.

Mr PETER SIDGREAVES: How widely is it used?

Ms FARRAR: The LEAP program?

Mr PETER SIDGREAVES: Yes.

Ms FARRAR: I can take that on notice and maybe come back with some stats for you about how many women do use it.

Mr PETER SIDGREAVES: That would be fantastic, thank you.

Ms FARRAR: I know, through LEAP, the services that do LEAP see women monthly at Silverwater, Emu Plains, and Dillwynia. As well, Women's Legal Service and ourselves are on the Common Auto Dial List [CADL] so women call us directly from centres wherever they are, and we follow women when they are moved, to Clarence, for instance.

Ms ROBYN PRESTON: How easy is it for you to connect with the different departments that have a roll-on effect for different issues with an inmate and their families?

Ms FARRAR: Not very easy.

Ms ROBYN PRESTON: I thought you might say that, because we are getting that theme with other witnesses that we have talked to. Are there any major ones that you want to pinpoint today, that we really need to look at and pay attention to? You talked about the lack of information with the inmate when she comes in and does not know where her children are. Is there not a system in place that deals with that at the introduction, when they first come in at reception?

Ms FARRAR: No. They are asked about their children, my understanding is, on the intake questionnaire. They have recently introduced co-located FACS workers at some of the women's prisons. I am not sure if that has been rolled out to all of them. I think it might have been. I do not know.

Ms ROBYN PRESTON: Is that better now?

Ms FARRAR: I think it is better for women in finding out that information. They have become my contact, really, with FACS, when I am wanting to deal with them and work out where children are in getting orders. I think it is important for women to have independent legal advice, so they are not getting their advice from a DCJ [Department of Communities and Justice] worker, and the DCJ worker is only able to assist, my understanding is, if there is an open case file. If there is not, or if there is a family law, or if it is an informal placement arrangement, they do not have a role, really.

Ms ROBYN PRESTON: Is it up to someone like yourself to give that information, and provide a redirection where they need to go to get more information, about their rights and what they can do?

Ms FARRAR: We do not so much tell them where to go to get that information, but we provide that. So we will go off and spend a lot of time finding out all the things that they need to know, and then providing legal advice and assistance. Sometimes there are referrals where we will do Legal Aid applications and things to get lawyers to represent, if there is a care matter on foot.

Ms ROBYN PRESTON: I was just listening to your response, in relation to the distance that inmates experience with their families when they are moved to different prisons. In other places that we visited, when COVID kicked in and all visits were stopped, the opportunity to connect through audio visual link [AVL] was an advantage for many. I am hearing here you think that might not be as positive a link as in other prisons. Is that something that you find the inmates did not really relish?

Ms FARRAR: Women have said that the AVL connections are good but it requires, if the kids are with carers, for the carers to, one, have the technology for it—and a lot of people do not have smartphones and do not have the tech literacy to do AVL hook-ups that way—and also for the carers to then do that. So there may be orders, but often things just do not happen when women go to custody. It is like all contact just stops, for no reason—there is no reason for it to stop.

Ms ROBYN PRESTON: Is there a place that the carers can go to, that you can connect them with, that they can sit down and have that experience with an AVL, if they do not have that ability themselves with their own knowledge of technology or a smartphone, for example? Is there somewhere they can go to have an experience like that, where they can book in a time and sit down at an AVL, and have that one-on-one connection? Is that provided?

Ms FARRAR: I do not know if that is provided.

Ms ROBYN PRESTON: But you are not providing that for them.

Ms FARRAR: We are not providing that for them, no. We are advocating for the mums to get that contact.

Ms ROBYN PRESTON: Did anyone else want to comment on that? Because it is clearly a gap, I think, if they do not have the ability to do it themselves.

Mr O'CALLAGHAN: Certainly, when Yetta Dhinnakkal was operating there was no facility along those lines. They did not even have AVL for court appearances, so they were physically travelling distances just for a mention. In terms of Wellington and Macquarie, I am unaware whether those facilities are being provided. Again, it is not something that we certainly facilitate, or have been part of. And I am not even sure—I know Macquarie is newer and therefore has more modern aspects to it, especially from the technological side, but to the extent that those prisons are using it, I cannot say directly.

Ms ROBYN PRESTON: My understanding is that they will be rolled out, going forward, to the other prisons.

Mr DAVID SHOEBRIDGE: We have had submissions from Yfoundations and others about changing the sentencing Act—and I think this goes back to a recommendation from the 1997 report from the Parliament—so that there is an express requirement to consider the interests of children, if the person being sentenced is a primary caregiver. Do you have any views about that and, if so, how that should be done? Should it be one of the mitigating factors in section 21A of the sentencing Act, or should there be standalone provisions that reference the best interest of the child? Do you have any views on it?

Mr O'CALLAGHAN: I have not thought specifically about it but I think, one, yes, I agree, it would certainly be beneficial to have as part of sentencing legislation. Secondly, I think it would be beneficial to have it directly addressed as a specific standalone provision, for example, instead of caught up within the mitigating factors under 21A, for the simple fact that you are considering significant, far-reaching consequences as a result of the offending behaviour that do not just come back to either the offender's personal circumstances, the seriousness of the crime and those sorts of considerations. It actually represents a shift towards something that is primarily a greater picture aspect, of considering the circumstances of the children's lives, that such an impact of sending that parent to prison would have on their context and their circumstances.

It would allow greater attention to be paid to consequences, such as the likelihood of that child then ending up in the care system, and being placed in out-of-home care, and whether or not that child is of Aboriginal or Torres Strait Islander background and the further consequences that, I would suggest, come with that, based on our experience out here of being removed from country and those sorts of things, and children being moved significant distances away from where they are growing up. I think it would be important that such an adjustment or a change to the legislation then allows and ensures that the sentencing court places the appropriate amount of time needed to actually consider the consequences that come from a provision such as that, instead of it being wrapped up in, perhaps, the other factors under 21A.

Mr DAVID SHOEBRIDGE: There is a whole set of rights and considerations that are entirely separate from the balance of the sentencing considerations. It is not about the society and punishment and the nature of the offending. There is a whole set of rights of the child that just do not get a look in.

Mr O'CALLAGHAN: Yes, that is right.

Mr DAVID SHOEBRIDGE: Decisions on both bail and sentencing have huge impacts on children, and at no point are their rights in play. I think that is the proposition that was put. Do you agree with that?

Mr LEACH: Yes.

Mr O'CALLAGHAN: I totally agree.

Mr LEACH: In our submission we have tried to emphasise the critical importance of the perspective of impacted children in the justice system, and the importance of giving voice to those people where possible, and appreciating the consequences for them of the decisions that we are making about their parents. If you like, I would be happy to take the more specific component of that question and poll our membership on it, and provide some supplementary information.

Mr DAVID SHOEBRIDGE: Yes, that would be good. I asked a more articulate set of questions of the Aboriginal Legal Service, so we might get those put to you.

Mr LEACH: We would be very happy to take them on notice.

Mr DAVID SHOEBRIDGE: Tidied up by the secretariat who can make sense of them.

Ms JODIE HARRISON: It is late in the day.

Mr DAVID SHOEBRIDGE: Yes.

Mr LEACH: We would welcome those. We have a lot of centres that are working on these issues, a lot of expertise across the sector, so we would be happy to share that.

Mr DAVID SHOEBRIDGE: It would be really helpful, thank you.

Ms JODIE HARRISON: Have you got any other comments on the implementation of the recommendations of a 1997 report into children of imprisoned parents—on how far we have or have not come? Is there anything in particular that we should be deeply concerned about—particular recommendations not having been implemented?

Mr LEACH: I am happy to answer that but, Ms Farrar, do you want to take it first?

Ms FARRAR: No.

Mr LEACH: Mr O'Callaghan, would you like to take it?

Mr O'CALLAGHAN: I will be honest: I have not looked at them for a while. Perhaps an aspect that flows on from it is, having worked in this area for 20 years and seen the issues that are coming up, and that continue to come up, I would be confident in saying, given the opportunity, I am happy to take it on notice and come back specifically around what we experience and the gaps that we still see on that.

Ms JODIE HARRISON: That would be good, thank you.

The CHAIR: I will ask one other question, if I may. I was interested to read about your recommendations in relation to justice reinvestment, and how we promote such an approach. Perhaps you could expand on that. How would we go about calculating the benefits and then redistributing, if you like, in terms of more support services and the budgetary measurement of those sorts of outcomes?

Mr LEACH: I will kick that off. We have touched on the, I think agreed, hugely impressive success of the justice reinvestment model. We are always looking for solutions to these long-term problems that plague the justice system, and here we have work that is being done, delivering these fantastic results that help communities address their own problems—engage people in that process, but give communities some control over the responses to those problems. We are great advocates of people being diverted away from the criminal justice system, as and when appropriate. We see great models being piloted. And I do think we have that shared responsibility to grab those and go, "Okay, this is working. Here's a solution, and we need to be resourcing them." Justice reinvestment is already generating the kind of economic case for those sorts of interventions. I do not have the details to hand, but it is a hugely impressive economic case. So I think we can take that, and we should all collectively be promoting that as a different strategy, instead of building more prisons. I do not know if my colleagues want to add anything to that.

Ms FARRAR: I would add that women in custody require a lot of services around drug and alcohol and domestic violence and sexual assault counselling that they are just not getting, and that would be of great benefit, I think, for women. A lot of their offending really stems from the traumas they have experienced, and none of that ever having been addressed. It does not get addressed when they are in custody. They do some drug and alcohol there, but then women are released, and there are no beds in rehab, or they are calling around the day they are out, when they have just been dropped off and they are trying to find somewhere to go. So more residential rehab where women can be with their children, I think, would be really beneficial for women who are in custody.

Mr DAVID SHOEBRIDGE: We spend billions tearing families apart; if only we spent a proportion of that trying to keep families together in the first place.

Ms FARRAR: Yes.

The CHAIR: Yes, there is a challenge in measuring these things, but your point is well made. Can I throw something at you, out of left field? You know that in the prison system the prisoners actually do a lot of internal work that produces an income stream, be it internal services or providing goods that they manufacture in prison that they sell to external parties. I think it amounts to something in the order of about \$430 million every year of real benefit to Corrective Services NSW. What do you think about the idea of using a percentage of that money—let us take 5 per cent, 10 per cent—and actually investing that into services that support prisoners in prison; indeed, further to that, their transition out of prison and things of that nature that are more, if you like, designed to assist those who produce the income in the first instance.

Mr LEACH: Left field, indeed. Mr O'Callaghan, do you want to take it, or Ms Farrar?

Ms FARRAR: Mr O'Callaghan?

Mr DAVID SHOEBRIDGE: It is you, Mr O'Callaghan.

Mr O'CALLAGHAN: I feel like I have spoken too much as it is. You always think, when you are on the video, you get forgotten and can manage to sit back a bit, but I will take it. I certainly think there is merit. I have been an advocate for a long time. I have been studying this stuff and working in this field for 30 years now, and the one thing I have not seen is anything change in a significantly beneficial way, in terms of outcomes for people going to jail. So where there is any opportunity to focus, so that programs or schemes or policies can be implemented so that there is a focus more towards assisting prisoners to transition out of jail, in a much more healthy and effective way—I had experiences of inmates who are literally given a bus ticket from Yetta Dhinnakkal that gets them to Dubbo or somewhere, and then they still have to get their way to Sydney, or get back home, or they get the fare to get home, and that is about it, and then they are on their own.

Certainly, an opportunity such as doing something like that would be a fantastic benefit. Part of the difficulty around it, especially when we are talking about significant prisons—and this is what frustrates me when you end up with a jail such as what Grafton has done—the reality is the bigger the jail, the more the inmates, the far more stretched the staff are who are running these facilities, and it appears to be the inverse proportion of opportunity to then access services that provide them help that they need, to address any issues that they are dealing with. And so, hence, I think the recommendations from the 1991 commission about these specific Aboriginal prisons, in particular, because it allows that to happen. So there certainly needs to be a focus on that, and an opportunity for access to these things. If using revenue, potentially, from part of these sales that would otherwise go to the state to provide services that are focused on that rehabilitation—then it is absolutely something that we should be looking at and exploring to do.

Can I just quickly say—this is a mantra I have, in terms of the out-of-home care system, but I think the two are very linked here—that children have one mother and one father, and when we remove that opportunity for them to stay connected to them, then with the breakdown of that family unit comes the whole host of issues that we see play out. So there really needs to be an absolute focus on where we can maintain those relationships, and on ensuring that when the government steps out, when the children turn 18, there are still actually people there in their lives, being their parents—who hopefully have had an opportunity to heal themselves in different ways—to still have a role to play in their lives and an opportunity to help guide them, and provide that connection that they need growing up.

Mr DAVID SHOEBRIDGE: Could I just ask to give you the opportunity to take on notice, and answer in more detail, the Chair's question? I can see an attraction, on one level, to having a funding stream to help inmates remain in contact with their kids and kids remain in contact with their parents. But, of course, there are international standards about the use of forced labour and how compulsion of labour is used in a prison system. I would be interested to get you balancing those different considerations in your answer.

Mr LEACH: Thanks. We will take that on notice.

Mr O'CALLAGHAN: Yes.

Mr LEACH: That is a good point. We will have a bit of a think about that. We think programs that reduce recidivism—well, firstly, that keep people out of prison in the first place, but then reduce the likelihood that people will be returning—pay for themselves. That is a saving, straight up. You do not necessarily need an income stream to fund that. But certainly we will take that question on notice.

The CHAIR: You will not get an argument from us, but I am trying to be a little bit creative about how we deal with a chronically underfunded system in these areas.

Mr DAVID SHOEBRIDGE: I want to be clear: I am not against exploring the idea—

The CHAIR: Yes, so let's do that.

Mr DAVID SHOEBRIDGE: —I just think we have these balancing considerations.

The CHAIR: Terrific. On that note, thank you, all of you, for attending today. There are a few questions on notice and there may be other questions the Committee may wish to put to you. Are you okay if we give you 21 days to get back to us?

Mr LEACH: That is terrific, thank you.

Mr O'CALLAGHAN: Yes.

The CHAIR: Terrific. Well, thank you very much. We certainly appreciate you spending the time to be with us today—all the way from Dubbo, as well, Mr O'Callaghan. Well done.

Mr O'CALLAGHAN: Thank you for the invitation.

The CHAIR: It is a pleasure. In closing, I note that the inquiry into the support for children of imprisoned parents will hold our second day of hearings on 14 May. I would also like to formally place on the record my thanks on behalf of members here to all of the witnesses who have appeared today. It has been a very illuminating day of public hearings. I thank my colleagues, Committee staff and Hansard for their assistance in conducting the hearing today. With those few words, I conclude today's proceedings. Thank you.

(The witnesses withdrew.)

The Committee adjourned at 16:07.