

Stigma, Discrimination and the Weaponisation of Survival:

**Women's Experiences of the Intersection between the Child
Protection and Criminal Legal Systems**



L | A | C | W
LAW & ADVOCACY
CENTRE FOR WOMEN



ELIZABETH MORGAN HOUSE
ABORIGINAL WOMEN'S SERVICE INC



Publication details

Acknowledgement of Country

We pay our respects to the Wurundjeri Woi-wurrung and Boon-wurrung peoples, the traditional owners and custodians of the unceded lands on which this project took place. We learn from their longstanding practices of care, community-building and advocacy for women and families. We also recognise the centrality of the child protection and criminal legal systems to ongoing settler colonialism and support clear calls for self-determination and transformative change. Sovereignty was never ceded.

Authors

This is a collaborative report produced by representatives from the Law and Advocacy Centre for Women, Elizabeth Morgan House, FIGJAM and the University of Melbourne: Kellyanne Andy, Holly Charles, Crystal McKinnon, Nesam McMillan, Elena Pappas and Nina Storey (in alphabetical order).

Acknowledgements

We are so thankful to the women who shared their stories and visions of a better future with us – your generosity and expertise is deeply appreciated and we too hope this report can contribute to the changes that are needed. Thank you also to everyone who contribute to this report: core project team member Amanda Porter; Law and Advocacy Centre interns Ruby Condon, Soojung Yeo, Melie Protat, June MacAraeg-Casem and Hannah Clancy; University of Melbourne research support staff Gillian Butcher, Carol Que, Bonnie Reid and the School of Social and Political Sciences and Faculty of Arts for research assistant support; and colleagues Bree Carlton, Jennifer Balint and Riya Kundu.

This research was supported by the Victoria Law Foundation (VLF). This report does not constitute VLF policy. The content of this publication is solely the responsibility of the authors and does not necessarily represent the views of the VLF.

Ethics approval details

Stage 1 of this project received human research ethics approval from the University of Melbourne (Project Number 2023-26447-43017-4).

Publisher details and Suggestion Citation/ISBN

Law and Advocacy Centre for Women, Elizabeth Morgan House, FIGJAM and University of Melbourne researchers (Charles, H, McKinnon, C, McMillan, N) and Storey, N. 2025. *Stigma, Discrimination and the Weaponisation of Survival: Women's Experiences of the Intersection between the Child Protection and Criminal Legal Systems*. Melbourne: University of Melbourne. Funding provided by Victorian Law Foundation Knowledge Grants Program.

Table of Contents

Glossary and Acronyms	5
Tables and Figures	5
Executive Summary.....	6
Findings and Recommendations.....	8
Findings from the Project	8
Recommendations	10
1. Introduction to the Report.....	13
1.1 This project	13
2. Background: Criminalised Women in Contact with Child Protection	15
2.1 Invisible and unsupported	15
2.2 The unjust impacts for mothers and families.....	17
2.3 Longstanding calls for systemic change	20
3. What We Did Together: Project Aims and Design	22
3.1 Interviews and focus groups	24
3.2 File reviews	26
3.3 Lived expertise involvement in the project	28
3.4 Stage 1 and Stage 2 of the project.....	29
Ethical Considerations.....	29
4. Findings	31
4.1 Data.....	31
4.1.1 Available data suggests many women experience the system intersection	31
4.1.2 There are concerning trends in available data that need further investigation	31
4.2 Women experience the system intersection as unsupportive and punitive	33
4.2.1 Women at the system intersection have significant unmet support needs	33
4.2.2 The child protection system reframes these support needs as risks	34
4.2.3 Women at the system intersection receive a punitive response to their and their children's needs	37
4.3 System interventions can also cause further harm	40
4.3.1 System interventions as increasing risk.....	40
4.3.2 System interventions as causing psychological and emotional harm	41
4.3.3 System interventions causing enduring stigma and surveillance.....	42
4.3.4 There is no accountability for these system harms	43
4.4 Women at the system intersection experience a lack of access to legal information and legal representation	44
4.5 Women at the system intersection are not included in decision-making or able to have their voices heard	45
4.6 For women who have been in prison, more support is needed to have contact and reunify with children	47

4.7	Women have to navigate multiple, conflicting systems themselves without support	49
4.8	System bias: Race, Gender and Socio-Economic Advantage	51
4.9	Strength, love and care.....	52
4.10	What a better response would look like	53
<i>Conclusion and Recommendations</i>		56
<i>Reference List</i>.....		60

Glossary and Acronyms

CCYP	Commission for Children and Young People
DFFH	Department of Families, Fairness and Housing
EMH	Elizabeth Morgan House
FAS	Financial Assistance Scheme
FIGJAM	Formerly Incarcerated Girls Justice Advocates Melbourne
LACW	Law & Advocacy Centre for Women
VLf	Victorian Law Foundation
VLA	Victoria Legal Aid

Tables and Figures

Table 1: Non-Legal Support Needs (Rounded)	31
Table 2: Support Provided (Rounded)	32
Table 3: Protective Concerns (Rounded)	33
Table 4: Compliance Obligations (Rounded)	36

Executive Summary

“A lot of us have been reunified with our children. And I think the important point to make is we’re the same people that we were when the children got removed. That’s just it in a nutshell” (RT-FM1)

“I understand like it’s ‘child protection’, but isn’t protecting the mum then necessary as well?” (INT1)

This report provides a window onto the needs and experiences of women in contact with both the criminal legal and child protection systems. It shows clearly how women experience the intersection of these two systems: as working against them, as well as harming and discriminating against both them and their families at times of crisis. When women come into contact with the criminal legal and child protection systems, they have significant support needs themselves relating to their health, experiences of trauma, housing insecurity and family violence. They also recognise the need for additional support for their children during this time of crisis. Yet, they receive little support for their own needs, including support to navigate the child protection system or have contact or reconnect with their children. They often do not know what their legal rights are in relation to the child protection system, and they are not meaningfully included in decision-making and court processes. Instead, in these crucial junctures in court or other proceedings relating to the care and welfare of their children, their voices are not heard and they can be misrepresented including in official documents. The treatment of women by the child protection and criminal legal systems, and by those individuals that represent them, is shaped by gender, racial and socio-economic bias. Overall, these systems that claim to offer ‘protection’ or ‘justice’ often fail to support women, and their children, in meaningful ways. Instead, women’s stories demonstrate how the state’s responses to women in crisis, especially those facing disadvantage, are underpinned by surveillance, disbelief and exclusion, rather than care or support.

But what also emerges from women’s stories is their strength, care for others and a better vision for the future. The women we learned from in this study identified a range of shifts that were needed to make current systems more humane and less harmful – community-based and solution-focused responses that address underlying needs and provide holistic, wrap-around supports. They emphasised the importance of lived expertise and peer support to understanding

what is needed and providing effective, person-centred support to women at the system intersection. There is also a need for criminalised women to have more support in their contact with Child Protection – for example, from independent advocates who walk alongside them – and to maintain a relationship with their children. These shifts are important for both women and children, especially children and young people who may be placed in residential out-of-home care. In this way, women's stories provide an invaluable insight into the harms and the barriers they faced, as well as providing the solutions and ways forward.

The project findings and data demonstrate that fundamental changes are needed to transform how the child protection and criminal legal systems intersect and how they can better respond to women's and families' needs. Emerging from the practice experience of community organisations supporting women at this intersection and their drive to understand women's experiences better, this project has brought together community organisations, academic researchers and lived experience experts and collectives. The project reveals the value of such collaborative work to address systemic injustice. Legal practice can support women experiencing the system intersection by working with lived experience advocates and trusted community service providers to ensure systems are held accountable and legal and other services reflect the holistic, person-centred support women said they need.

Findings and Recommendations

Findings from the Project

FINDING ONE: Data

Available project data suggests that:

- many women, and their children, experience the system intersection
- there are concerning trends in available data that need further examination.

FINDING TWO: Women at the system intersection have significant unmet support needs, but they receive an unsupportive, blaming and punitive response

Women at the system intersection have significant unmet support needs, relating to alcohol and drug use, family violence, mental health challenges and family violence. The child protection system reframes these support needs as risks (or protective concerns). This results in a situation where women receive a punitive and stigmatising response to their own and their children's support needs that is focused on individual responsibility and compliance.

FINDING THREE: Child protection and criminal legal system interventions cause further serious harms, increasing risks to women and their children and causing long-term psychological and emotional harm. System interventions lead to enduring stigma and surveillance due to system records and information sharing. There is no accountability for these system harms.

FINDING FOUR: Women at the system intersection experience a lack of access to legal information and legal representation. Women themselves have to work out what rights they have in relation to child protection and where they can turn for support. They face life-altering decisions and consequences without adequate information and support. They experience a lack of power and agency in their contact with the child protection and criminal legal systems.

FINDING FIVE: Women at the system intersection are not included in decision-making nor are they able to have their voices heard. Women's perspectives are not always included in decision-making and official documents. They feel silenced and misrepresented in official records, with no 'right of reply'.

FINDING SIX: For women who have been in prison, more support is needed to have contact with and reunify with their children. Women in prison face multiple barriers to connecting and reconnecting with their children, while in custody and on release. There is no one responsible for ensuring that women and children at the system intersection can contact each other in prison. Women need parenting and material support (such as housing) to successfully reunify with their children on release from prison.

FINDING SEVEN: Women have to navigate multiple, conflicting systems themselves without support. The child protection and criminal legal systems work in siloed, and sometimes conflicting, ways. When they do work together, women felt that they colluded against them in a punitive way. Support was invaluable, but often random and due to the efforts of one person or worker.

FINDING EIGHT: Racial, gender-based and socio-economic bias shape the nature and practice of the child protection and criminal legal systems. Women at the system intersection can experience racial discrimination and gendered double standards (for example, that hold mothers responsible for situations of family violence). Economic advantage also makes it easier for some people to access the support they need and avoid Child Protection intervention.

FINDING NINE: The women that we spoke with demonstrated immense strength and resilience and love and care for their children and others. They spoke of trying to make the best decisions they could at hard times and reach out for support. They are committed to working towards change and to ensuring solidarity and peer support for women and families at the system intersection.

FINDING TEN: Immediate and substantive change to the child protection and criminal legal systems is needed.

When they were asked ‘*what a better outcome would have looked like and what supports were needed for this?*’, interviewees identified a range of important shifts and initiatives that shaped our project recommendations.

Key shifts identified:

- **Building up a range of alternative, community-based supports for women and their families** and subsequently remove police and child protection practitioners as first responders;
- **Investing resources in responding to the underlying needs** that affect women’s involvement with the child protection system and criminal legal system and their ability to reunify with their children, including **access to safe and affordable housing**;
- **Non-judgemental, strengths-based and solution-focused responses** to women, families and their needs, including alcohol and drug use;
- **Early intervention by holistic, wrap-around support focused on keeping families together**;
- **Humanistic or humanised support** that treats people like they matter;
- **Learning from and prioritising lived expertise and peer support.**

Specific initiatives identified:

- **Independent advocates** who work with women from first contact with Child Protection;
- **Better support to maintain relationships while in prison**, including free phone calls, visiting supports and co-located Child Protection staff;
- **Funding to meet need** for community organisations who women at the intersection turn to and trust.

Recommendations

RECOMMENDATION ONE: Data

Better data collection is needed on the extent and nature of women's experiences of the system intersection. Future data collection initiatives and research should specifically examine in more detail: the over-representation of Aboriginal and Torres Strait Islander women at the system intersection; whether children of women at the system intersection may be placed in out-of-home care at a younger age than other Victorian children; and the overlap between experiences of out-of-home care as a child and later contact with the child protection and criminal legal systems as a mother.

RECOMMENDATION TWO: Fund and prioritise community-based and needs-based support

Prioritise and fund according to demand community-based, early intervention and wraparound supports for women and their families that address their unmet support needs, particularly in relation to:

- alcohol and drug use;
- family violence;
- mental health challenges;
- housing.

thereby removing the involvement of the child protection and criminal legal systems from women and children's lives.

RECOMMENDATION THREE: Housing, housing, housing

Ensuring funding and access to safe and affordable housing is an overriding priority to enable women to keep their children safe and reunify with their children.

RECOMMENDATION FOUR: Fund community organisations

Fund, according to demand, the trusted community-based organisations that women at the system intersection turn to for help, to ensure they can provide the services needed.

RECOMMENDATION FIVE: Social and cultural training

Better, early training for all workers and organisations who have contact with women at the system intersection and their families to understand:

- the underlying reasons and unmet support needs that have resulted in women coming into contact with the criminal legal and child protection systems
- how to respond in a non-judgemental, solution-focused, humane, family-centred and strengths-based way.

This training should:

- include lived expertise insights and participants;
- be required for people working in Child Protection, Corrections and Parole, community service providers, family and criminal lawyers and support services that engage with criminalised women (such as those assisting people with alcohol and drug use, mental health challenges, housing insecurity, and family violence);
- include Aboriginal and Torres Strait Islander expertise and lived experience;
- occur early in their education or training.

RECOMMENDATION SIX: Broader societal change

Investigate and develop recommendations in relation to enabling changes in broader societal attitudes and approaches to women at the system intersection and the discrimination and bias they currently face.

RECOMMENDATION SEVEN: Independent advocates

Women are linked in with independent advocates who work with women from their first contact with Child Protection to understand their rights and legal processes and walk alongside them during the process – extending a model similar to the important support provided by Grandmothers Against Removal to Aboriginal women and their families.

RECOMMENDATION EIGHT: Discrimination on the basis of criminal record

Further investigate and develop recommendations to address the harm and bias in service provision experienced by women at the system intersection due to criminal records, or due to permanent, partial and incorrect state records, and because of information sharing and publicly available information sources (such as various internet sources and social media platforms).

RECOMMENDATION NINE: Better supports to enable women to maintain relationships with families while in prison

As recognised by the Victorian parliamentary inquiry into parental incarceration, this necessarily includes:

- free, untimed phone calls;
- greater support for children to visit their parents – including funding support, obligations on and support for carers to facilitate visits, and support that is independent from both systems to facilitate visits;
- a Child Protection worker or workers in prison (see, for example, the successfully evaluated New South Wales co-located caseworker program).

RECOMMENDATION TEN: Lived expertise and peer support

Learn from, prioritise and adequately fund:

- lived expertise leadership;
 - peer support models;
- in advocacy, practice, policy development and training.

RECOMMENDATION ELEVEN: Fund and evolve legal services to support women at the intersection

Provide dedicated funding to community legal centres and advocacy organisations to support women navigating both the child protection and criminal legal systems. This should include:

- Representation in child protection matters, including decision reviews and reunification support;
- Strategic litigation and complaints under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and anti-discrimination legislation;
- Advocacy to address structural discrimination and harm;
- Person- and family-centred legal practice that embeds lived expertise and trauma-informed approaches;
- Greater use of rights-based legal strategies and collaboration with trusted community organisations.

Legal services must be resourced to evolve their practice and play an active role in the various systemic changes called for by women.

1. Introduction to the Report

1.1 This project

This project was a collaboration between the Law & Advocacy Centre for Women (LACW), Elizabeth Morgan House Aboriginal Women's Service (EMH), researchers at the University of Melbourne, FIGJAM (Formerly Incarcerated Justice Advocates) and other lived experience experts. It had two key aims:

- 1. To better understand the legal and non-legal needs and experiences of women in contact with both the criminal legal and child protection systems**, including any particular needs and experiences of Aboriginal and Torres Strait Islander women.¹ This included better understanding the support (or barriers) they experienced in maintaining or re-establishing contact with their children *and* participating in child protection processes.
- 2. To build the research capacity of LACW and EMH and develop sustainable models of data collection, ethics and research impact for future and similar projects.**

These project outcomes were directed towards improving LACW and EMH's capacity to provide integrated, wrap-around support to women at the intersection of the two systems (that is, to ensure they were able to identify and respond to people's legal and non-legal needs). They were also directed towards informing the systemic advocacy of LACW and EMH in this space, and the capacity for the organisations to amplify women's voices and priorities so they are not left out of policy development and implementation.

¹ While there are many understandings of family and diverse care arrangements that extend beyond families, our references to the 'child protection system' relate to a system of state intervention in the care of children through legal processes. Meanwhile, we use the term 'Child Protection' to refer to the Victorian Child Protection Service, delivered by the Department of Families, Fairness and Housing. The 'criminal legal system' refers to all organisations and professionals that respond to behaviour that is criminally prohibited, including police, prosecuting agencies, courts and corrective services. We recognise the diversity of Aboriginal and Torres Strait Islander communities and women. Throughout this report, we refer to Aboriginal and Torres Strait Islander women inclusively, unless the original source refers to Aboriginal people.

The project emerged from the practice experience of LACW, the only legal service in Victoria whose primary focus is to assist women who are in or at risk of entering the criminal justice system. LACW provides legal advice and representation in relation to criminal matters, family violence intervention orders, the victims of crime Financial Assistance Scheme (FAS), infringements/fines, and, from June 2021 to June 2024, child protection. This legal assistance is provided alongside holistic case management to address the causes of criminalisation and imprisonment. Through their work representing women in criminal cases, they saw the need for a specialist child protection practice that would represent the women coming to their practice in the civil, Family Division of the Children's Court. Most of these women have concurrent criminal, family violence intervention order and / or victims of crime assistance matters. As part of this work, LACW identified a gap in their knowledge and data in relation to the needs, experiences and any barriers faced in maintaining or re-establishing contact with their children and participating in child protection processes of women in this situation.

LACW partnered with EMH, the peak body in Victoria for Aboriginal women and children, providing refuge accommodation, family violence services, therapeutic support and working with Aboriginal women in the justice system to uphold their rights to live a life free from violence. In 2023, Elizabeth Morgan House started working specifically with criminalised Aboriginal women through the new Aboriginal Healing Unit at Dame Phyllis Frost Centre providing holistic support and therapeutic care. They also collaborate with other community services to run pre-release and post-release support for women in contact with the criminal legal system. LACW and EMH then invited a team of Aboriginal and non-Aboriginal academics at the University of Melbourne to contribute to the project. Finally, as part of the first stage of the project the Formerly Incarcerated Girls Justice Advocates Melbourne (FIGJAM) Collective was invited to join the team as a project partner to develop recommendations on Stage 1 and collaborate on Stage 2 (on Stages 1 and 2, see Section 3 below). FIGJAM is a peer-led collective of formerly incarcerated women, trans and gender diverse folks in Victoria focused on advocacy, connection and support.

This report focuses on the first stage of this study, which worked with women with criminal legal and child protection system contact who are living in the community (that is, they are no longer in justice system contact). We worked with these women as both lived experience experts and as interviewees, with ethics approval from the University of Melbourne. The scoping findings in this report are based on these interviews and a review of LACW case files.

The next stage of the project will work with women in custody and under justice supervision (for example, on parole), as well as a broader range of service providers and staff working within prison, with ethics approval from the Justice Human Research Ethics Committee. Stage 1 of the project has been crucial to establishing the ethical and methodological framework to undertake such work, given the complexities of researching other people's experiences of criminalisation, harm, loss and state intervention.

2. Background: Criminalised Women in Contact with Child Protection

2.1 Invisible and unsupported

There is no clear data on how many women in Victorian prisons are mothers.² At a national level, a majority of women entering prison (54%) have one dependent child and many others have non-dependent children.³ Aboriginal women are understood to be more likely to be mothers than non-Aboriginal women.⁴ As the number of women in Victorian prisons, especially Aboriginal women, continues to grow significantly over time, it is predicted that the number of mothers in prison will also grow.⁵ The over-criminalisation of Aboriginal women specifically also means their children are more likely to be affected by parental incarceration.⁶

There is even less available data on how many women are in contact with *both* the criminal legal system (living in prison or in the community) and the child protection system. A recent Victorian parliamentary inquiry into parental incarceration found that neither criminal legal or

² Legislative Council Legal and Social Issues Committee, "Inquiry into Children Affected by Parental Incarceration" (Parliament of Victoria, August 2022), xix, xxiii.

³ Australian Institute of Health and Welfare, "The Health and Welfare of Women in Australia's Prisons" (Canberra: AIHW, 2020), 10; Legislative Council Legal and Social Issues Committee, "Inquiry into Children," 34; Althea Gibson et al., "Supporting Incarcerated Mothers: A Mixed Methods Evaluation of the NSW Co-located Caseworker Program," Trends and Issues in Crime and Criminal Justice (Canberra: Australian Institute of Criminology, January 2025), <https://doi.org/10.52922/ti77741>.

⁴ Legislative Council Legal and Social Issues Committee, "Inquiry into Children," xi, xv; Juanita Sherwood and Sacha Kendall, "Reframing Spaces by Building Relationships: Community Collaborative Participatory Action Research with Aboriginal Mothers in Prison," *Contemporary Nurse* 46, no. 1 (December 1, 2013): 85, <https://doi.org/10.5172/conu.2013.46.1.83>.

⁵ Legislative Council Legal and Social Issues Committee, "Inquiry into Children," 35–38.

⁶ Legislative Council Legal and Social Issues Committee, "Inquiry into Children," 37–38; Yoorrook Justice Commission, "Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems," 2023, 25.

child protection agencies systematically gather this information.⁷ However, there are clear indications that a large amount of women and their families experience the intersection between these systems.⁸ For example, in their submission to the Victorian parliamentary inquiry, VACCA (Victorian Aboriginal Child and Community Agency) reported that one quarter (27%) of Aboriginal children in a particular service region who were in contact with child protection also had a father or mother in prison.⁹ Further studies show child protection can be a triggering factor in women's increasing criminalisation and that children experiencing maternal incarceration face high rates of child protection involvement.¹⁰ In Western Australia and NSW, studies based on linking government department datasets or correctional data show a majority of women in prison have children in contact with child protection or have children out of their care.¹¹ Again, given the dire over-representation of Aboriginal children in contact with child protection in Victoria (at a rate 11 times higher than non-Aboriginal children), it is expected that Aboriginal women, children and families are more impacted by the intersection between this system and the criminal legal system.¹²

However, despite this intersection between the criminal legal and child protection systems, inquiry reports and research have continued to show a lack of coordination between them. Generally, the needs and experiences of the children of parents in prison are not seen to be the responsibility of any government agency.¹³ The Victorian inquiry into parental incarceration found that whether or not children's needs were recognised and met, for example by police or courts, was 'discretionary' rather than mandated, highlighting research reporting children being

⁷ Legislative Council Legal and Social Issues Committee, "Inquiry into Children," 73, 82.

⁸ Gibson et al., "Supporting Incarcerated Mothers," 2; C Caruana et al., "Leaving Custody behind - Foundations for Safer Communities and Gender-Informed Criminal Justice Systems: Issues Paper" (Melbourne: Centre for Innovative Justice, RMIT University, 2021), 27.

⁹ Law & Advocacy Centre for Women, "Inquiry into the Children of Imprisoned Parents" (Carlton, Victoria, April 19, 2022), 8, <https://www.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-children-with-imprisoned-parents/>.

¹⁰ E Campbell, L Macmillan, and C Caruana, "Women Transforming Justice: Final Evaluation Report." (Centre for Innovative Justice, RMIT University, Melbourne, 2020), 43–45; Leonie Segal et al., "Child Protection System Involvement in Children of Incarcerated Mothers: A Linked Data Study," *Child Abuse & Neglect* 139 (May 1, 2023): 5–6, <https://doi.org/10.1016/j.chiabu.2023.106126>.

¹¹ A Western Australian data linkage study found 60% of children were in contact with child protection, see Segal et al., "Child Protection System Involvement," 6; a New South Wales study based on correctional data found that 73% of women with children did not live with their children when they entered prison, see Lobo and Howard, "Women in Prison" 2.

¹² Yoorrook Justice Commission, "Yoorrook for Justice," 19, 25.

¹³ Finding 12, Yoorrook Justice Commission, "Yoorrook for Justice," xxi; see also Rosemary Sheehan and Gregory Levine, "Parents as Prisoners: Maintaining the Parent-Child Relationship," 2007, 14, [cinch.277226](https://search.informit.org/doi/10.3316/cinch.277226), <https://search.informit.org/doi/10.3316/cinch.277226>; and A. Hart and M. Field-Pimm, "Whose Responsibility? Reexamining Victorian Justice System Responses to the Children and Families of Parents in Prison," *Australian Journal of Social Issues* 57, no. 2 (2022): 284, <https://doi.org/10.1002/ajs4.192>.

left at school or with lawyers at court after their parent was taken into custody.¹⁴ In relation to children in contact with child protection specifically, there is no evidence that the criminal legal and child protection systems systematically communicate with each other or work together to ensure that parents in prison can have contact with their children involved with child protection or participate in case-planning and decision making.¹⁵ Instead, the child protection and criminal legal systems operate independently, which means that women in contact with them both are left to navigate ‘two large bureaucracies with vastly different aims, policies, practices and organisational cultures’.¹⁶ Along with the lack of Victorian data, this lack of awareness of the experiences of mothers and children in contact with both systems means that their needs and perspectives remain ‘invisible’ to others.¹⁷

2.2 The unjust impacts for mothers and families

The intersection between the criminal legal and child protection systems has serious impacts for mothers and their families. When they are in prison or Child Protection is involved in their lives, criminalised women are often forcibly separated from their children and reliant on other people to facilitate contact with them. The experience of losing contact with their children is extremely distressing for mothers in prison, particularly when they are aware their child is involved with Child Protection or at risk of family violence.¹⁸ There is evidence that mothers are less likely than fathers in prison to have other people facilitate their contact with their children, and generally receive little support to have contact with their children or reconnect with them when they leave.¹⁹ This contact may be even less likely where family contact has to be facilitated by Child Protection.²⁰ For Aboriginal and Torres Strait Islander women, incarceration can also affect their capacity to care for other children and people in their

¹⁴ Legislative Council Legal and Social Issues Committee, “Inquiry into Children,” 8, 50; on this point, see also Hart and Field-Pimm, “Whose Responsibility?”

¹⁵ Sheehan and Levine, “Parents as Prisoners,” 6, 14, 85; and more recently cumulative testimonies to the Legislative Council Legal and Social Issues Committee, “Inquiry into Children,” 62, 83, 110, 142.

¹⁶ Gibson et al., “Supporting Incarcerated Mothers,” 11; see also Sheehan and Levine, “Parents as Prisoners,” 14.

¹⁷ Legislative Council Legal and Social Issues Committee, “Inquiry into Children,” 83, see also 74.; It is now widely accepted that children who experience parental incarceration are ‘invisible’ - often described as the ‘invisible’ or ‘forgotten’ victims of crime, see for example Sheehan and Levine, “Parents as Prisoners,” 8, 13; Gibson et al., “Supporting Incarcerated Mothers,” 11.

¹⁸ Gibson et al., “Supporting Incarcerated Mothers,” 2, 13; Campbell, Macmillan, and Caruana, “Women Transforming Justice,” 31; Yoorrook Justice Commission, “Yoorrook for Justice,” 366.

¹⁹ Legislative Council Legal and Social Issues Committee, “Inquiry into Children,” 131; Yoorrook Justice Commission, “Yoorrook for Justice,” 366; Law & Advocacy Centre for Women, “Inquiry into the Children,” 5.

²⁰ Law & Advocacy Centre for Women, “Inquiry into the Children,” 5.

communities.²¹ Both criminalised women and children affected by parental incarceration face social discrimination and stigma due to their justice system contact.²² In their practice, LACW found that this stigma and shame was a barrier to maintaining contact with their children.²³

Parental incarceration also negatively impacts on the lives of their children - in particular their emotional, mental and physical wellbeing.²⁴ Parental incarceration is an experience of grief and loss, and is associated with children facing challenges in relation to their education involvement, housing and care arrangements.²⁵ For Aboriginal children and young people, separation from their families can affect their connection to culture and country and reflects a continued practice of damaging state intervention in their children's and family's lives.²⁶ The Yoorrook Justice Commission refers to the child protection and criminal legal systems as 'two intertwined colonial systems' which have caused deep harm to Aboriginal people and communities in the past and present.²⁷ Even when reforms are implemented into child protection practice, they tend to reproduce colonial perspectives on families, which reinforces these cycles of harm rather than addressing the structural causes of disadvantage.²⁸

Moreover, for children, there are a range of adverse impacts associated with being in contact with child protection, and particularly the out-of-home care and residential care systems. These include being more likely to experience poor educational opportunities, housing insecurity, serious mental health challenges, sexual exploitation and criminalisation.²⁹ Multiple reports

²¹ J. Jones et al., "Australian Aboriginal Women Prisoners' Experiences of Being a Mother: A Review," *International Journal of Prisoner Health* 14, no. 4 (2018): 225–26, <https://doi.org/10.1108/IJPH-12-2017-0059>; Campbell, Macmillan, and Caruana, "Women Transforming Justice," 32, 39–40.

²² Women and Mentoring, "Speaking from Experience: A Framework to Drive Change" (Melbourne: Women and Mentoring, 2025), 3; Legislative Council Legal and Social Issues Committee, "Inquiry into Children," xii, 5; Sheehan and Levine, "Parents as Prisoners," 14.

²³ Law & Advocacy Centre for Women, "Inquiry into the Children," 5.

²⁴ Catherine Flynn and Kathryn Gor, "Living with a Parent in Prison: Learning from Young People," report (Monash University, February 4, 2025), 6, <https://doi.org/10.26180/28340528.v1>.

²⁵ Legislative Council Legal and Social Issues Committee, "Inquiry into Children," xi, xix, 15, 19; Sherwood and Kendall, "Reframing Spaces by Building Relationships," 85; Yoorrook Justice Commission, "Yoorrook for Justice," 366.

²⁶ Yoorrook Justice Commission, "Yoorrook for Justice," 366; Legislative Council Legal and Social Issues Committee, "Inquiry into Children," xix, see also 18.

²⁷ Yoorrook Justice Commission, "Yoorrook for Justice," 46.

²⁸ Terri Libesman, Paul Gray, and Kirsten Gray, "The Shackles of Terra Nullius in Child Protection 'Reforms,'" in *Legal Education Through an Indigenous Lens*, by Nicole Watson and Heather Douglas, 1st ed. (London: Routledge, 2024), 66–67, <https://doi.org/10.4324/9781003473404-5>.

²⁹ Susan Baidawi and Rosemary Sheehan, "'Crossover Kids': Offending by Child Protection-Involved Youth," Trends & Issues in Crime and Criminal Justice (Australian Institute of Criminology, December 2019), 2, https://www.aic.gov.au/sites/default/files/2020-05/ti582_crossover_kids-v2.pdf; Yoorrook Justice Commission, "Yoorrook for Justice," 4, 25; Commission for Children and Young People, "Let Us Learn: Systemic Inquiry

now highlight the over-criminalisation of children in out-of-home care and police involvement in responding to absences from care and behavioural incidents in care as a significant contributing factor.³⁰ In 2020, Commission for Children and Young People (CCYP) reported that 24% of children in out-of-home care were also involved in the youth justice system and this rose to 50% for those whose final placement was in residential care.³¹ These findings point to a well-documented but poorly addressed pathway from residential care to criminalisation and family separation, which can impact specifically on young women (who, for example, are significantly more likely to be reported absent from residential care).³² There are also intergenerational impacts of such system involvement. For example, 23% of young women became parents while in, or shortly after leaving, out-of-home care and the majority (71%) of these young women also had children known to child protection.³³

Serious legal consequences also flow from the lack of coordination between the child protection and criminal justice system. Prior research has found that child protection assistance is a common unmet support need for women in custody.³⁴ Through their child protection practice, LACW saw that mothers in prison were not notified of or included in decision-making processes concerning their children and faced barriers to accessing legal representation.³⁵ This can affect their ability to be part of child protection hearings and case planning and decision-making processes that may influence permanent care arrangements.³⁶ Incarceration means limitations are placed on women's ability to communicate with others, plan for appointments, and receive support and representation to participate in key processes and have their preferences heard. It can also impede their capacity to satisfy child protection conditions for

into the Educational Experiences of Children and Young People in out-of-Home Care" (Melbourne, November 2023), 22–23; Commission for Children and Young People, "Out of Sight: Systemic Inquiry into Children and Young People Who Are Absent or Missing from Residential Care" (Melbourne: Commission for Children and Young People, 2021), 15, <https://ccyp.vic.gov.au/assets/Publications-inquiries/Out-of-sight-inquiry-report-Web>.

³⁰ Commission for Children and Young People, "Out of Sight," 81, 132; Commission for Children and Young People, "Keep Caring: Systemic Inquiry into Services for Young People Transitioning from out-of-Home Care," 61; Commission for Children and Young People, "In Our Own Words': Systemic Inquiry into the Lived Experience of Children and Young People in the Victorian out-of-Home Care System," 159–62; Commission for Children and Young People, "Always Was, Always Will Be Koori Children: Systemic Inquiry into Services Provided to Aboriginal Children and Young People in out-of-Home Care in Victoria." See also Koorie Youth Council, "Ngaga-Dji" which discusses the structural criminalisation of poverty and identity, as well as the intergenerational nature of child protection and criminal legal system involvement for Aboriginal families.

³¹ Commission for Children and Young People, "Keep Caring," 61.

³² Commission for Children and Young People, "Out of Sight," 81–82.

³³ Commission for Children and Young People, "Keep Caring," 61.

³⁴ Campbell, Macmillan, and Caruana, "Women Transforming Justice," 43–45.

³⁵ See Law & Advocacy Centre for Women, "Inquiry into the Children," 5 and broader project discussions.

³⁶ Gibson et al., "Supporting Incarcerated Mothers," 3. This also emerged through LACW's practice, but the Victorian Inquiry also noted the impact of reunification timelines for parents in prison, see 105.

future contact, such as demonstrating that they have maintained contact with their children or participated in necessary programs when they are reliant on others to facilitate both these actions.³⁷ These barriers can have serious and long-lasting consequences – for example, children (and particularly babies) can be placed on permanent care orders if their mother has not had contact with them in the first 12 months of their incarceration.³⁸ There was evidence presented to the Yoorrook Justice Commission that criminalised parents did not know even where their children were living following a permanent care order decision.³⁹ Difficulties relating to housing and other necessary supports can also affect women’s ability to reconnect with their children on release.⁴⁰ For the women we spoke with in this project, these legal impacts mean that women do not receive the support they need and experience the systems as colluding against them (see Section 4.7).

More generally, women in contact with the criminal legal system have a range of unmet support needs. The vast majority of women in prison (70-90%) are estimated to have experienced physical, sexual or emotional abuse, with the rates for Aboriginal and Torres Strait Islander women being highest.⁴¹ Despite the strength, resilience and diversity of women in contact with the criminal legal system, they are disproportionately impacted by structural and systemic inequalities, such as housing insecurity, socio-economic inequality, gender-based violence, systemic racism and unemployment, and have significant unmet health and support needs.⁴²

2.3 Longstanding calls for systemic change

³⁷ Gibson et al., “Supporting Incarcerated Mothers,” 3, 9, 11; Law & Advocacy Centre for Women, “Inquiry into the Children,” 5–6.

³⁸ One of the conditions for a permanent care order is that a child’s parent has not had care of the child for at least 6 months, or for periods amounting to less than 6 months in the last 12 months: *Children, Youth and Families Act 2005 (Vic)*, s319(a).

³⁹ Yoorrook Justice Commission, “Yoorrook for Justice,” 366.

⁴⁰ Una Stone, Marg Liddell, and Marietta Martinovic, “Jumping Hurdles: The Myriad of Issues and Barriers for Incarcerated Mothers to Regain Custody of Children,” *Justice Policy Journal* 12, no. 1 (March 1, 2015): 6–7.

⁴¹ Australia’s National Research Organisation for Women’s Safety, “Women’s Imprisonment and Domestic, Family and Sexual Violence: Research Synthesis,” ANROWS Insights (Sydney, NSW: Australia’s National Research Organisation for Women’s Safety Limited (ANROWS), March 2020), 5, <https://www.anrows.org.au/publication/womens-imprisonment-and-domestic-family-and-sexual-violence/>.

⁴² Australia’s National Research Organisation for Women’s Safety, “Women’s Imprisonment,” 6–8; Marie Segrave and Bree Carlton, “Women, Trauma, Criminalisation and Imprisonment,” *Current Issues in Criminal Justice* 22, no. 2 (November 2010): 290–93, <https://doi.org/10.1080/10345329.2010.12035887>; Emma Russell et al., “A Constellation of Circumstances: The Drivers of Women’s Increasing Rates of Remand in Victoria,” (Melbourne: Fitzroy Legal Service and the La Trobe Centre for Health, Law and Society, 2020), 5, 19.

“For First Peoples, the child protection and criminal justice systems have long been sites of systemic injustice.”⁴³

Both the criminal legal system and the child protection system involve the (largely involuntary) intervention of the state in people’s and family’s lives. As outlined in multiple inquiries, these systems intersect to co-produce harm across generations, demonstrating the ongoing, cyclical impacts of system intervention.⁴⁴ For Aboriginal and Torres Strait Islander people and families in particular, the child protection and criminal legal systems a broader context of colonial control, surveillance and dispossession. Both systems have been used as ways to enable and reinforce colonial state power and racial bias, and dispossess Aboriginal and Torres Strait Islander people despite their continued sovereignty and resistance.⁴⁵ Both systems impact unfairly and disproportionately on these communities and there has been longstanding advocacy and calls for fundamental and transformative change and the development of a range community-based supports and alternatives.⁴⁶ Most recently, the Yoorrook Justice Commission has recommended ‘transformative changes’ to child protection and criminal legal processes, including full self-determination and a transfer of power in relation to child protection and criminal justice (Recommendations 1 and 2), reflecting continued community advocacy and other support for these goals.⁴⁷ It also recommended several urgent actions and reforms, including the need to strengthen prevention and early intervention instead of the child protection system (Recommendation 8), better fund Aboriginal community-controlled organisations providing services in this space (Recommendations 8 and 9), and ensure that all

⁴³Yoorrook Justice Commission, “Yoorrook for Justice,” 14.

⁴⁴ See, for example, Koorie Youth Council, “Ngaga-Dji”; Commission for Children and Young People, “Keep Caring.”

⁴⁵ Yoorrook Justice Commission, 14, 16, 46–63. In relation to racial and systematic discrimination, see also p. 9, 15, 19.

⁴⁶ Commission for Children and Young People, “Our Youth, Our Way: Inquiry into the Overrepresentation of Aboriginal Children and Young People in the Victorian Youth Justice System” (Melbourne: Commission for Children and Young People, 2021) (especially 46-63 on longstanding advocacy and resistance in relation to successive government policies); Commission for Children and Young People, “Always Was, Always Will Be Koori Children”; Victorian Aboriginal Legal Services, “A Plan for Aboriginal Justice in Victoria: Empowerment, Identity, Culture” (Melbourne: Victorian Aboriginal Legal Services, 2022); Koorie Youth Council, “Ngaga-Dji”; Sissy Austin, “‘Our Kids Belong With Family’: A Look into Institutional Child Removal,” *Indigenous X* (blog), February 16, 2022, <https://indigenoux.com.au/our-kids-belong-with-family-a-look-into-institutional-child-removal/>; Commonwealth of Australia, *Royal Commission into Aboriginal Deaths in Custody: National Report*, vol. 1 (Canberra: Australian Government Publ. Service, 1991), vol. 1.

⁴⁷ For example, see Austin, “Our Kids Belong with Family”; Libesman, Gray, and Gray, “The Shackles of Terra Nullius,” 68.

Aboriginal families in contact with the child protection system have access to legal assistance and non-legal advocacy in relation to child protection reports (Recommendation 12).

These calls for structural change sit alongside other broader findings about the need to better recognise and address the negative impact of parental incarceration on mothers and their children.⁴⁸ This work highlights a range of needed system reforms, from a more gender specific approach to criminalised women, to more child-aware arrest, court and prison processes, to increased support for contact and connection for families when mothers are in custody.⁴⁹ It also recognises the need to reduce, if not remove, women's incarceration generally, especially in light of overall growth in the number of women in custody and the connection between women's criminalisation and experiences of harm, trauma and socio-economic disadvantage.⁵⁰

Yet, despite the number of inquiry reports, community campaigns, academic research and practice-based submissions over many years that have highlighted the serious issues that exist and a range of ways forward, there remains a 'paradox of reform without change'.⁵¹ The stories and experiences that are in this report amplify these existing calls for change and make it clear that more action is needed, now.

3. What We Did Together: Project Aims and Design

⁴⁸ For example, see Thalia Anthony, Gemma Sentance, and Larissa Behrendt, "'We're Not Being Treated Like Mothers': Listening to the Stories of First Nations Mothers in Prison," *Laws* 10, no. 3 (September 13, 2021): 74, <https://doi.org/10.3390/laws10030074>; Catherine Flynn and Anna Eriksson, "Children of Prisoners," in *The Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice*, ed. Antje Deckert and Rick Sarre (Cham: Springer International Publishing, 2017), 437–48, https://doi.org/10.1007/978-3-319-55747-2_29.

⁴⁹ Una Stone, Marg Liddell, and Marietta Martinovic, "Incarcerated Mothers: Issues and Barriers for Regaining Custody of Children," *The Prison Journal* 97, no. 3 (2017): 300; Hart and Field-Pimm, "Whose Responsibility 277; Legal and Social Issues Committee, Legislative Council, "Inquiry into Children Chapter 7; Campbell, Macmillan, and Caruana, "Women Transforming Justice" 11.

⁵⁰ Stone, Liddell, and Martinovic, "Incarcerated Mothers," 312; Legal and Social Issues Committee, Legislative Council, "Inquiry into Children," 41–42; Thalia Anthony and Gemma Sentance, "The System Doesn't Care about Our Aboriginal Children: First Nations Mothers in Prison," *Precedent (Sydney, N.S.W.)*, no. 159 (August 1, 2020): 22–27.

⁵¹ Libesman, Gray, and Gray, "The Shackles of Terra Nullius 57 describe as the 'paradox of reform without change', where legislated participation and decision making rights remain largely unimplemented in practice, which allows child protection systems to operate with unchecked authority over Aboriginal families. See also Stone, Liddell, and Martinovic, "Incarcerated Mothers," 311–12; Hart and Field-Pimm, "Whose Responsibility?," 277; and Flynn and Gor, "Living with a Parent," 2.

“Trust that we know who we are, what we have been through and what we need in this moment.”⁵²

“Through the lived experience of women ... the nuances and complexities in debates appear that deserve deeper attention than sensationalised newspaper headlines and soundbites from the uninformed commentariat. These are stories that should be centre stage in these discussions.”⁵³

Despite their expert insight into how the criminal legal and child protection systems function, and the broader social, political and economic reasons that people come into contact with them, women who have experience of the two systems can struggle to have their voices heard. Criminalised women face significant social stigma, both when they are involved with the legal system and afterwards.⁵⁴ Similarly, women affected by the child protection system are also often unheard and met with discrimination based on stereotypes.⁵⁵ Due systemic racism and the historical biases of both the criminal legal and child protection systems, Aboriginal and Torres Strait Islander women in contact with both these systems face even greater barriers to been seen and respected.⁵⁶ For example, as we discuss further below (4.3.3), women at the system intersection describe the way that digital records are used against them, even though these do not contain their voices or stories and can be untrue. Yet, it is through the stories and perspectives of all women affected by these systems, in their diversity, that it becomes possible to appreciate the root causes of important problems, the solutions needed and where resources need to flow.⁵⁷ As Eualeyai and Kamilaroi academic-public commentator Larissa Behrendt

⁵² Women and Mentoring, “Speaking from Experience,” 4.

⁵³ Larissa Behrendt, “Stories and Words, Advocacy and Social Justice: Finding Voice for Aboriginal Women in Australia,” *Australian Feminist Law Journal* 45, no. 2 (July 3, 2019): 196, <https://doi.org/10.1080/13200968.2020.1837538>.

⁵⁴ Diana Johns et al., *Co-Production and Criminal Justice*, 1st ed. (London: Routledge, 2022), 54, 58, <https://doi.org/10.4324/9780429328657>; Women and Mentoring, “Speaking from Experience,” 3, 11.

⁵⁵ Joanne McGrath et al., “‘They Tarred Me with the Same Brush’: Navigating Stigma in the Context of Child Removal,” *International Journal of Environmental Research and Public Health* 20, no. 12 (January 2023): 6162, <https://doi.org/10.3390/ijerph20126162>.

⁵⁶ Behrendt, “Stories and Words,” 198–201.

⁵⁷ Behrendt, “Stories and Words”. In relation to the emphasis on diversity, see Women and Mentoring, “Speaking from Experience”; “FIGJAM - Formerly Incarcerated Justice Advocates” <https://www.flatout.org.au/figjam>.

explains, while statistics can demonstrate that an issue exists, it is through stories that it becomes possible to grasp what solutions are needed and where resources should flow.⁵⁸

As such, this project took a storytelling approach, which sought to listen to and learn from the lived experiences of women at the system intersection.⁵⁹ As noted earlier, our two overarching aims were to (1) better understand the legal and non-legal needs and experiences of women in contact with both systems, including the particular needs and experiences of Aboriginal and Torres Strait Islander women, and (2) build the research capacity of LACW and EMH and develop sustainable models of data collection, ethics and research impact for future and similar projects.

In terms of Aim 1, we listened and learned from women about their needs and experiences in three main ways (a) interviews and focus groups (b) file reviews, and (c) lived expertise involvement in the project – which we describe further below. Lived expertise involvement in the project was also crucial to fulfilling Aim 2, alongside our collaborative project design. Aim 2 was largely achieved by research and LACW and EMH staff working collaboratively together on all stages of the project, including project co-design, ethics approvals, data collection, data analysis and recommendation development – rather than, for example, the researchers taking responsibility for ‘research tasks’ like ethics approval and so on.

3.1 Interviews and focus groups

Stage 1 of the project, on which this report is based, involved semi-structured interviews and focus groups with women with experience of the system intersection. We conducted one focus group with members of the FIGJAM Collective, as well as three additional, and one follow up, interviews – speaking with six women in total. Five of these women had been personally affected by both systems, while one woman had experienced criminalisation and now worked with criminalised women in contact with Child Protection. We were also lucky to access

⁵⁸ Behrendt, “Stories and Words,” 194, 198–99.

⁵⁹ For more on the value of storytelling approaches in relation to research with criminalised women and amplifying silenced voices, see Johns et al., *Co-Production and Criminal Justice*, 54. See also Anthony, Sentence and Behrendt, “‘We’re Not Being Treated Like Mothers’”.

women's voices and experiences through an already prepared document on the system intersection that FIGJAM was involved in producing, which we analysed in this project with the Collective's permission.⁶⁰

The relatively small number of women we spoke with needs to be balanced with a recognition of the intensely traumatic nature of the experiences (criminalisation and child removal) they were discussing with us. Ultimately, we made a conscious decision in the project to only speak with women who were already connected with one of the three community partners to the project (LACW, EMH and then FIGJAM), such that the support and cultural safety needed to ethically interview people in this area and ensure adequate follow up if needed existed through those existing relationships.

The interviews focused on four main questions, namely women's experiences of:

- *The system intersection:* Can you walk us through your experience with these systems, or what stands out to you most about your experience of both systems?
- *Support received or not received:* Were you supported as someone involved with both systems – for example, to have contact with or reconnect with your children, be part of child protection processes, have access to legal representation, or have support to understand your legal rights and how to comply with the child protection order conditions?
- *Barriers:* Did you face any barriers or did your involvement with one system impact on the other? Did your involvement with these systems impact on your ability or willingness to access other support systems?
- *Recommendations for change:* What would a better outcome have looked like and what supports were needed for this?

However, given our storytelling approach, our key focus in the interviews was to listen to what interviewees wanted to tell us about their experience of the two systems. This meant we began by acknowledging them as the experts in this field, before starting with the broad question above about their experience. Sometimes the answer to this question took most of the interview time, even though they also answered the other questions through their answer. If needed, we intervened with follow-up questions to make sure we covered the other areas, particularly their

⁶⁰ In Section 4 of this report, these data sources are referred to as RT-FM1, RTFM3, INT1, INT2, INT3 and RT-FM1-2, INT4, and FD1.

recommendations for change. All interviews were on Zoom due to interviewee preference and people were paid \$75.00 per hour in the form of prepaid credit cards. Interview transcripts were also provided to all interviewees in case they wanted to make any changes and later all interviewees were given an opportunity to review and make changes to any quotes we proposed to use in the report. All interviewees were invited to a session where they could give us feedback on our draft findings and will be invited to the report launch.⁶¹

The interview and focus group transcripts were thematically analysed to identify common experiences, needs, barriers and recommendations for the future.⁶² In Section 4 below, we discuss the key themes that emerged from the interview in general terms – conscious of not including any identifying information from any interviewee and/or making it possible to identify interviewees through referencing every point we heard. The quotes used in the report are also sometimes amended from their original form and interviewees are referred to by pseudonym.

3.2 File reviews

We also analysed deidentified file review data from LACW's child protection practice which provided a second window on women's experiences. LACW ran an in-house child protection practice from June 2021 until June 2024. The practice was established to target a particular cohort of mothers who were otherwise facing barriers to accessing legal advice and representation for their child protection proceedings – that is, women with experience of the criminal legal system, and women subject to involuntary treatment orders in relation to their mental health challenges. The practice was managed by an experienced Managing Lawyer who was an accredited specialist in children's law, and supported by one other lawyer who was trained to act in child protection matters. Both lawyers worked across LACW's other legal practice areas, including criminal defence, family violence intervention orders, infringements, and victims of crime assistance applications. Both lawyers maintained a significant file load

⁶¹ Although not all interviewees were able to take up these opportunities.

⁶² Virginia Braun and Victoria Clarke, *Thematic Analysis: A Practical Guide* (Los Angeles: Sage, 2022).

across these other areas with a particular focus on criminal defence, in addition to their work on child protection matters.

LACW was not independently funded to undertake this work, and relied on case-by-case funding as a member of Victoria Legal Aid's (VLA) relevant panel. At the outset, it is important to note the difficulty for a number of potential clients in qualifying for a grant of legal assistance under VLA's guidelines. These guidelines require that in respect of receiving a grant of aid for legal assistance for a protection application, the person has 'reasonable prospects of the child being placed in their care'. The guidelines specifically exclude 'parents who are seeking contact only or who are only seeking particular conditions in orders'. For a multitude of reasons, it can be very difficult for women in contact with the legal system, and particularly those who are in prison, to meet these guidelines for a grant of legal assistance, despite there being active child protection proceedings on foot or intervention from the Department of Families, Fairness and Housing (DFFH). As we discuss further below (Section 4.4), conflict of interest provisions can also limit women's access to legal representation. While ideally LACW would have been able to also assist clients who were seeking to re-establish contact with their children, but who could not meet the threshold for having the child placed in their care, this was not feasible within funding constraints.

In terms of this project, file review data was collected internally to LACW in line with its privacy and confidentiality protocols. All child protection files, which contain both paper-based and electronic records, that had been worked on from June 2021-June 2024 were reviewed and data relevant to the research project was extracted, de-identified and then recorded on a spreadsheet. Although this did not involve a thorough review of all concurrent legal files – including for criminal defence matters – that were also opened on behalf of the client during the relevant period, information regarding concurrent matters was initially gleaned from the child protection file, and LACW staff reviewing the files sought to address any gaps in information by obtaining access to the electronic file on a case-by-case basis as they assessed was necessary.

Substantively, relevant, deidentified data from 66 client files was collected before being viewed by the broader project team.⁶³ This largely related to their child protection involvement –

⁶³ In the time period for the file review, LACW opened 98 Child Protection files relating to 69 different clients. Data relating to 66 clients was included in their review process.

including the residential status of their children and age of removal and the protective concerns and compliance conditions noted in their child protection files. We also collected general service data, such as their access to legal representation and their non-legal support needs on intake. In Section 4 below, file review data is discussed in general terms, without reference to specific cases, and by rounding the data to avoid any reference to individual cases. Key trends in this data are reported as counts or percentages of certain issues arising across the files as a whole (and most files had multiple concerns, conditions and non-legal support needs identified). This focuses attention on the trends across files.

Due to information collected during LACW's screening process, it was possible to separate data relating to Aboriginal or Torres Strait Islander-identifying clients (almost 40% of the client files). This number indicates that Aboriginal and Torres-Strait Islander clients are over-represented at the system intersection, based on LACW data. However, we only separate out this data when it shows something distinctive about the experience of Aboriginal and Torres Strait Islander women (as opposed to being in line with the proportion of the general sample of case files of which they are a part). We will provide a more detailed analysis of the data in Stage 2, when we will also conduct interviews with Aboriginal and Torres Strait Islander women and can report on the trends across both sets of data. As such, it is important to emphasise that our findings best reflect the experiences of the women included in our project, rather than all women in this situation.

3.3 Lived expertise involvement in the project

We were also fortunate to have a lived expertise consultant, Nina Storey, join the project and we worked together on the project design, data collection and analysis and authorship of the report.⁶⁴ Nina's advice directly shaped the interview questions asked, how the data was analysed and our engagement with women with lived experience in crucial ways, making the other team members alert to a range of important considerations. Then when the opportunity to work more closely with FIGJAM, of which Nina is a member, emerged towards the end of

⁶⁴ On the significance of lived expertise involvement, see Morgan Lee Cataldo et al., "Remembering Radical Roots: Lived Experience Participation Movements and the Risks and Responsibilities of Co-Design in Community-Led Change," n.d.; Women and Mentoring, "Speaking from Experience."

the project, we were delighted to collaborate with them around recommendation development, reflecting on the first stage of the project, and building a sustainable and ethical model of data collection, ethics and research impact for Stage 2 of the project. We are thankful for the support and advice provided by Nina and FIGJAM throughout all stages of the project and look forward to extending this collaboration in Stage 2 of the project.

3.4 Stage 1 and Stage 2 of the project

Early in the project, we decided to split it into two stages as the original project had been too ambitious to do in the timeframe with the available resources. It took much longer than expected, for example, to secure ethics approval for both interviews and data collection in the community *and* interviews with people in prison or on parole. As we secured ethics approval through the University of Melbourne to conduct data collection in the community first, we proceeded with that aspect of the research. This stage, Stage 1, is the focus of this report. We will conduct interviews in prison and with women living in the community under justice supervision (such as on parole or on a community corrections order) in Stage 2. As part of this stage, in line with our ethics approval from the Justice Human Research Ethics Committee, we will also interview Corrections Victoria staff and service providers working with the women in prison.⁶⁵

Ethical Considerations

Research on this topic is ethically complex, as it intervenes in people's lives and asks them questions about some of the most difficult times in them, including their experiences of interpersonal harm and intrusive state intervention, without any immediate benefit.⁶⁶ These complexities and power imbalances in research are important to acknowledge, even though

⁶⁵ This ethics approval has other conditions, including not being able to remunerate women for their participation in the research.

⁶⁶ For a powerful explanation of the gap between promises of change and the lack of immediate or tangible benefit for interviewees - and the power imbalances of research more generally - in another context, see Jacqueline Z. Wilson, Philip Mendes, and Frank Golding, "Hope Street: From Voice to Agency for Care-Leavers in Higher Education," *Life Writing* 15, no. 4 (October 2, 2018): 3–5, <https://doi.org/10.1080/14484528.2018.1427420>.

they cannot be overcome.⁶⁷ However, the storytelling approach in this project aimed to support the women involved to have agency and power over what and how they shared about their experiences. Knowing and feeling supported in focus group of peers in already established communities of care and respect (such as FIGJAM and the Women and Mentoring Peer Advisory Group), the engagements were designed to give the women a sense of respect and healing. Small ways we sought to recognise and respond to them included an emphasis on using project findings to inform service delivery (rather than just academic articles); taking the opportunities we had to be guided by people with lived expertise on the project itself; and all undertaking to use the research findings to advocate for real change in the long-term, rather than seeing the project as ‘finished’ when the report was complete. The involvement of lived experience advocates has been a journey of partnership and shared power - rebuilding structural safety. The women involved have expressed a sense that this has been relational work and not exploitative of their experiences.

⁶⁷ See also Johns et al., *Co-Production and Criminal Justice*, 58.

4. Findings

4.1 Data

4.1.1 Available data suggests many women experience the system intersection

In the absence of clear data from either the criminal legal or the child protection systems (see ‘Background’), informal data sources can provide some insight into how many women experience the intersection between these systems. The LACW file review data demonstrates that a significant number of women experience contact with both systems. Over two thirds of these clients had concurrent criminal defence matters with LACW, meaning that they were actively in contact with both systems at the time. As LACW is a service specifically focussed on women who have had experience of the criminal legal system, it can also be assumed that the vast majority their child protection clients were in contact with both systems at some stage. LACW client files also identify at least 145 children belonging to these 66 clients, indicating that even more children than women might be experiencing the system intersection. Most children (over 80%) were recorded as being in out-of-home care, with the vast majority of these children being recorded as living with family or in kinship care.

4.1.2 There are concerning trends in available data that need further investigation

Even though it is a selective sample of women’s experiences, the file review data, together with the interviews, demonstrates some concerning trends. First, **Aboriginal and Torres Strait Islander women are significantly over-represented at the system intersection**, based on LACW data. They represent around 40% of clients in the file review data, despite only comprising 1% of the broader Victorian population.⁶⁸ This over-representation of Aboriginal and Torres Strait Islander women at the intersection underscores what is well known about the

⁶⁸ Australian Bureau of Statistics, “Victoria - Aboriginal and Torres Strait Islander Population Summary,” January 7, 2022, <https://www.abs.gov.au/articles/victoria-aboriginal-and-torres-strait-islander-population-summary>.

disproportionate levels of intervention by the child protection and criminal legal systems and Aboriginal women's and families' lives.⁶⁹

Second, **the children of women at the system intersection may be placed in out-of-home care at a younger age than other Victorian children.** The file review data, which relates specifically to women at the system intersection, shows a higher percentage of children in out-of-home care at young ages. Over 12% of children living in out-of-home care in the LACW file review data were under 1 year old compared to 2.8% of children in out-of-home care in Victoria as a whole.⁷⁰ This potentially indicates a greater level of intervention by Child Protection in these families' lives at an earlier stage.

Third, interviews and files reviews also reveal an **overlap between experiencing the child protection system as a child and later experiencing the system intersection as an adult.** This data was not systematically collected by this project, but did arise across the range of study data. Childhood involvement with child protection was linked to a greater exposure to criminalisation and potentially child protection involvement as a mother, reflecting the broader findings in recent inquiries in Victoria discussed in Section 2. Young people in residential care, for example, can be criminalised for running away or having police called to incidents that they would not be contacted regarding in other family contexts. Such criminal records can then follow women into adulthood and parenthood, which can – in turn – be used to justify further involvement of state systems in women's lives. Such examples illustrate both the intergenerational nature of system involvement for some women and families and the way in which involvement with one system can increase women's, including young women's, exposure to the other (see Section 2).

Fourth, the file review data also shows that **mothers at the intersection may be still young people themselves.** Although LACW only provides services to women over 18 years of age, multiple clients in contact with both systems were under 25 years of age. Young people under

⁶⁹ Yoorrook Justice Commission, "Yoorrook for Justice," 24–25.

⁷⁰ The Australian Institute of Health and Welfare reports on the ages of children in out-of-home care by state, see Australian Institute of Health and Welfare, "Child Protection Australia 2022–23, Supporting Children," Australian Institute of Health and Welfare, May 16, 2025, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/insights/supporting-children>; Australian Institute of Health and Welfare, "Data Tables: Child Protection Data Australia 2022–23," Australian Institute of Health and Welfare, May 16, 2025, tbl. S 5.5, <https://www.aihw.gov.au/reports-data/health-welfare-services/child-protection/data>. Although our data is more selective and relates to a smaller data set of children who are in out-of-home care and whose ages were recorded (n 97).

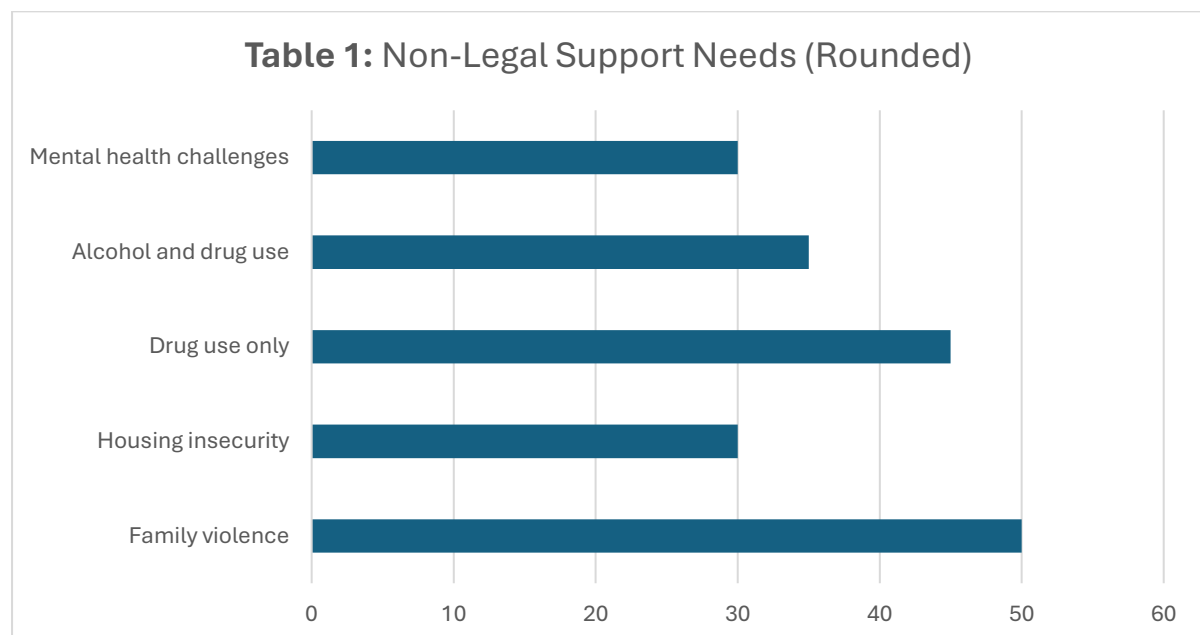
25 years of age are increasingly recognised as a unique group, developmentally separate from adults, who need tailored and different system interventions.⁷¹

4.2 Women experience the system intersection as unsupportive and punitive

4.2.1 Women at the system intersection have significant unmet support needs

When women included in this study were in contact with both the criminal legal and child protection systems, they were often experiencing a time of crisis and vulnerability in their lives. They had significant unmet support needs relating to family violence, the use of drugs and alcohol to cope with trauma, mental health challenges and housing insecurity.

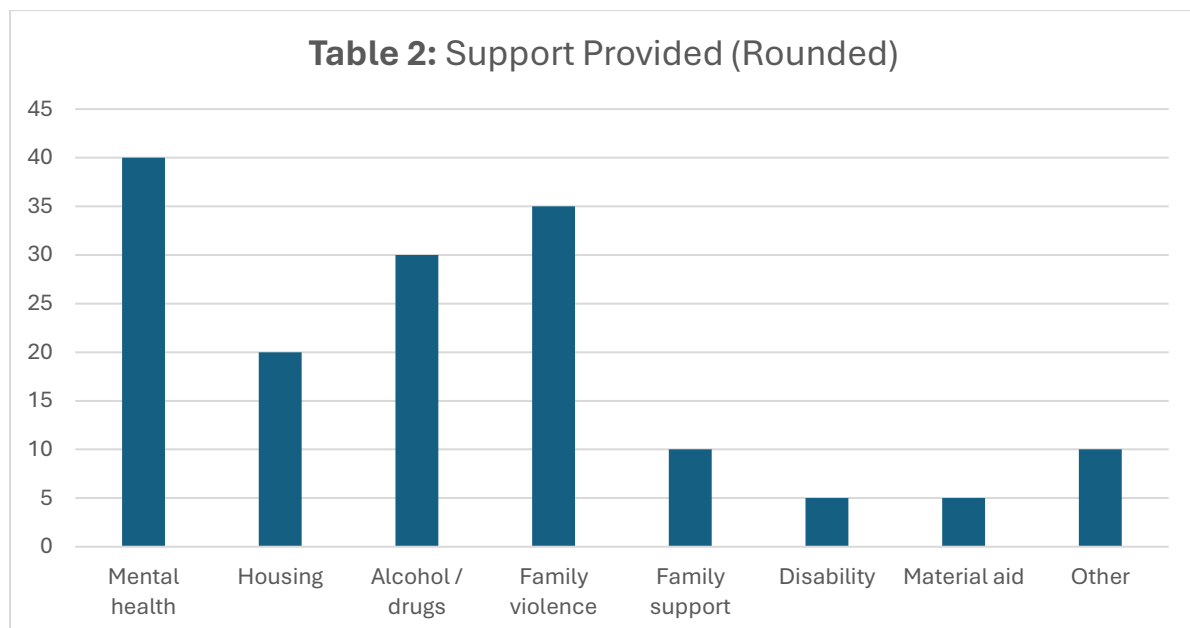
In their intake process, LACW screens clients for their non-legal support needs relating to experiences of family violence, housing insecurity, drug and alcohol use and disability (including mental health challenges). Non-legal, and overlapping, support needs were identified for 100% of clients:



⁷¹ Sentencing Advisory Council, “Rethinking Sentencing for Young Adult Offenders” (Melbourne: Sentencing Advisory Council, 2019), para. 1.4-1.8.

Women in prison can have even higher needs, as well as a lack of access to legal support.

Clients then received or were referred to a broader range of supports:⁷²

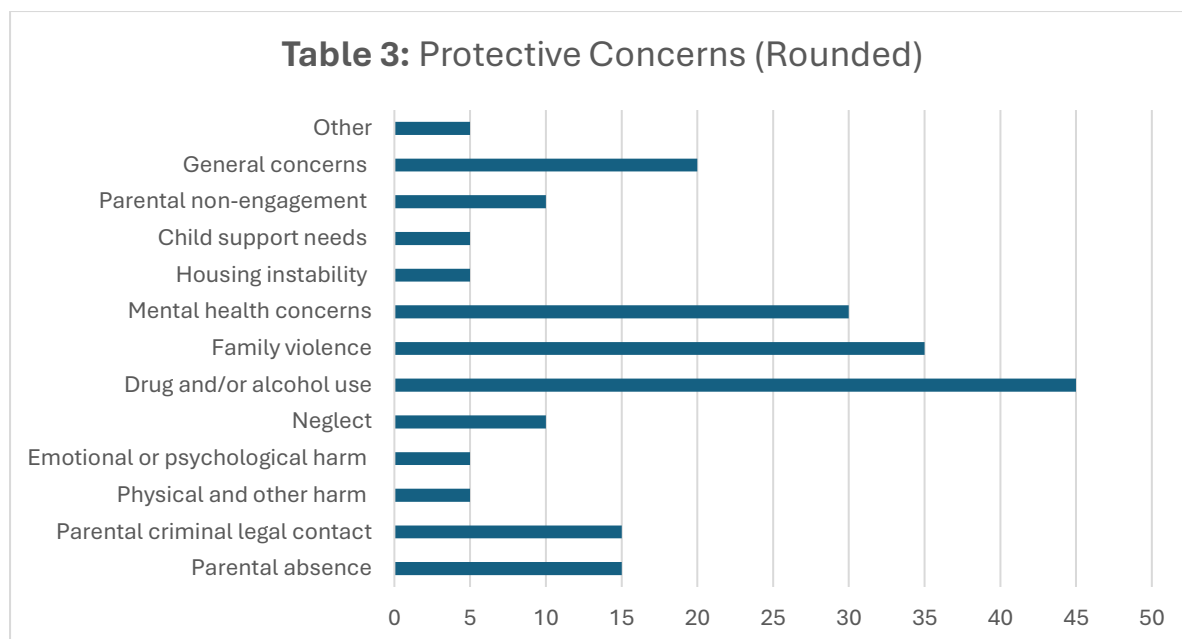


The extent of women's non-legal support needs reflects existing knowledge about the experiences of harm, trauma and socio-economic disadvantage that underpin women's involvement with the criminal legal system (see Section 2 of this report). It also reflects the lack of supports they have received to navigate them.

4.2.2 The child protection system reframes these support needs as risks

There is an overlap between the support needs of women and the child protection concerns identified in the LACW file reviews. Three of the four key support needs of women that LACW identified on intake – family violence, drug and alcohol use, and mental health challenges – also represent the top three protective concerns identified by Child Protection through the file review:

⁷² Where clients were referred to or received more than one service of the same support type (for example, family violence support and contact with The Orange Door), this was only counted as one support.



The fourth most common protective concern noted in clients' files was 'general concerns'. 'General concerns' is a category we used to code concerns that broadly relate to assessments of a parent's capacity to adequately care for their child that are expressed in general terms. These often co-existed with protective concerns relating to family violence, mental health challenges or alcohol and drug use, so these 'general concerns' may frequently be directly related to these unmet support needs.⁷³ Although housing insecurity appeared as a common non-legal support need on intake by LACW, it did not appear as regularly as a listed protective concern. However, the impact of housing insecurity and access to appropriate housing was regularly highlighted across other project data (interviews and documents) as affecting women's criminalisation, child removal and the ability of mothers to reunify with their children.

The overlap between women's most common non-legal support needs and the protective concerns (or risks to children) in Child Protection reports demonstrates how women's unmet support needs are reframed as risks. This was also a theme in interviews. Many interviewees described times when they reached out to support services for help (for example, for housing, respite care, mental health support, or safety from family violence) only to have these actions used against them.

⁷³ Some files did also include more than one general concern.

“I had voluntarily said, hey, I need help to look after [my child]... and then they didn’t let me see her.” (INT4)

Others described how accessing alcohol and drug services specifically can be later used against you, for example, in court or child protection decision-making, or lead to them being refused support altogether:

“if you do have a relationship with drugs and you’re trying to seek help, being honest about that help, then it means that you don’t have access to your child for even longer. So it’s like this catch 22.” (RT-FM1)

“They just look at your history and you’re already dismissed. It’s like they’ve decided already.” (INT3)

This can actually make people feel that it is unsafe to seek support and makes them less likely to reach out for help.

Given this project’s focus on the system intersection, it is also notable that ‘parental criminal legal contact’ was the fourth most common protective concern. This often involved a reference to a parent’s criminal record or criminalised activities, and did not necessarily indicate that this parent was in custody (and parental absence or lack of contact is not necessarily assumed). These instances may be evidence of what we heard in our interviews about the criminal legal contact almost automatically leading to child protection involvement (see section 4.7 below). Meanwhile, ‘parental absence / issues with parental contact’ includes a range of situations in which there are barriers to parental contact, including when a parent (mother or father) is in hospital or custody or Child Protection cannot contact them. As such, it does not necessarily reflect an intentional decision by parents to be out of contact, and we heard in interviews examples of children being removed from their parent’s custody in these situations without them being contacted. We also heard across interviews how hard it was for external people (support staff and parents) to make contact with Child Protection workers generally.

“I rang around all afternoon trying to get onto this worker at child protection, I meant, this went, this went all day ... Literally transferred to every different DHS [Department of Human Services] location in Victoria, almost ... And I didn’t get a call from Child Protection until two

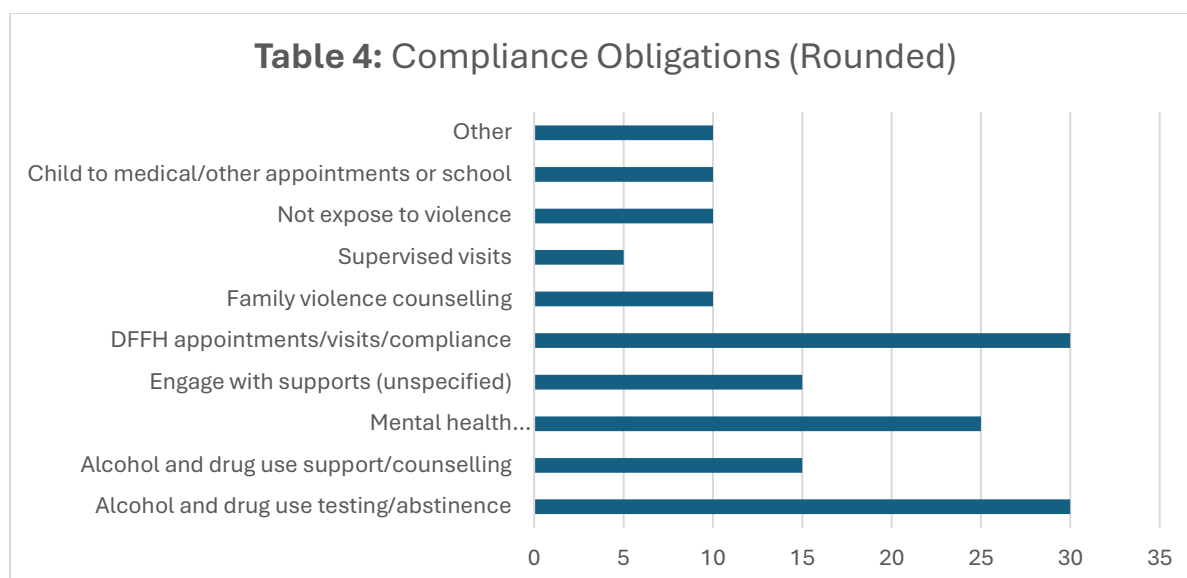
days later ... it was 6 days after my kids got taken off me, was when she decided to meet up with me.” (INT1)

Despite the high rate of child removal in the file reviews, relatively few protective concerns related to direct physical, sexual or emotional or psychological harm to children. This reflects interviewees’ experiences of having their children removed due to crisis, circumstances or disadvantage.

4.2.3 Women at the system intersection receive a punitive response to their and their children’s needs

As well as an overlap between women’s support needs and listed protective concerns, the LACW file review also revealed an overlap between these needs and concerns and the compliance conditions of the Children’s Court order that were listed on client files. Compliance activities were recorded for around 80% of clients. The number of conditions that each client had to comply with ranged from 1-7 conditions, with around 50% having 3-4 conditions. This aligns with our interviews in which interviewees spoke about having to manage multiple compliance conditions (see 4.7 below).

Mirroring women’s key support needs, the most common compliance requirement related to alcohol and drug testing and abstinence, which was even more prominent if combined with the category of alcohol and drug support/counselling. The next most common compliance condition was mental health treatment and counselling. Family violence counselling was perhaps less common than expected, given the prevalence of family violence as a support need. This may suggest that women are not receiving adequate *support* in relation to the violence they experience or there is need for them to be taken to immediate safety rather than engaging in counselling. At the same time, they may be facing compliance-focused (even punitive) responses to coping behaviours, such as substance use (see discussion later in this section). Moreover, compliance obligations related to family violence may also be captured within other categories, such as ‘no exposure to violence’. In contrast, the third most common compliance requirement was ‘DFFH appointments /visits / compliance’, again demonstrating how Child Protection interventions are often focussed on the monitoring and control of parental behaviour.



This reframing of support needs into child protection risks and then into compliance obligations reflects a punitive response to women’s unmet support needs. This places the burden on women to ‘fix’ their own support needs – such as mental health issues, substance use and family violence – through mandated actions in order to maintain or regain custody of their children. Instead of receiving care and support, they are subjected to monitoring and control.

Interviewees told us about the blaming and stigmatising response they received from systems to their support needs:

“Everyone's just like going at me, punishing me, treating me like the worst parent in the world... it's like I've chosen drugs over my kids and all those kinds of statements. I think that's really hard too, all that stigmatising and blaming instead of actually looking at what the actual reasons are and like, that was my only coping strategy... But to be abandoned and neglected and constantly, like so many punitive actions and consequences.” (INT4)

“They made me out to be this horrible person and a horrible parent.” (INT1)

Stigma was seen to be multi-layered, with stigma associated with criminal legal contact, mental health challenges and then drug use as cumulative.

Interviews and other data also demonstrate how experiences of family violence specifically were either ignored or used against women by the child protection and the criminal legal systems. Interviewees reported that their children were removed not because of any direct harm

to the children, but because they were unable to leave an abusive relationship quickly enough or were unable to find adequate housing – which are systemic failures not parental failures.

“the father was abusive and kept coming around to the house and we went to court with Child Protection and the judge said they would give me 3 weeks to find new accommodation and but there was no assistance so I obviously couldn't find accommodation in that time and I lost my daughter temporarily until I could.” (FD1)

Women described feeling blamed for experiencing family violence, and described being punished through child removal, surveillance and criminalisation, rather than supported to escape violence or keep their families safe. As one woman asked:

“If they can remove my kids because they're in a domestic violence [situation]... why didn't they take me too?” (INT1)

The purported failure of these women to protect their children from violence was treated as a risk to the children's wellbeing, without them receiving support for their experiences of family violence.

Interviewees highlight the particular stigma and blame associated with drug use – even though several interviewees described such use as a coping mechanism to deal with their own experiences of trauma and unmet support needs. Multiple interviewees even said that if they had not used drugs they would not have survived. However, as with help-seeking attempts, interviewees described their efforts to survive trauma through substance use as being met with a punitive response:

“You know, you might have an order for three months and within that three months you throw a dirty and then then the next order's extended to six months. And then within that six months again you throw a dirty. And it just keeps increasing and increasing. And at no point does anybody consider why it is that you're using substances or supporting you through the substance use.” (RT-FM1)

As well as blaming women for their coping strategies, this punitive approach is ‘all or nothing’ – ‘risk’ is evaluated in absolute terms as either present or absent, rather than being able to celebrate recovery over time and acknowledge the common occurrence of relapse in this journey.

Reframing support needs as compliance obligations individualises women's support needs, placing the burden of meeting these needs on women themselves:

"Like you know, trying to comply with all of these different appointments. And you know with all of these tick box things that have placed on your court order in order to get your children back and all of those things communicating and information sharing."

Yet the reality is that *"They're using because they don't know how else to stop. It's not because they don't want their children."* (INT4)

"Drug use is very much linked to poverty as a lot of child protection matters are - for example the rich don't have their children removed from using illegal drugs" (RT-FM1)

The Yoorrook Justice Commission discussed how the child protection system's focus on individualised risk ignores the structural causes of poverty, violence and trauma, which ultimately leads to a cycle of removal and harm.⁷⁴ This reflects a systemic failure to recognise trauma, poverty, substance use and so on as occurring due to health, wellbeing or social issues. Instead, systems frame them as individual failings, justifying child removal and other interventions, working to entrench intergenerational trauma. This reframing of support needs into individualised risk has also been established and criticised in relation to women's experiences of the criminal legal system - specifically in relation to assessments of risk as they relate to bail and remand processes.⁷⁵

4.3 System interventions can also cause further harm

4.3.1 System interventions as increasing risk

Interviewees also told us that child protection interventions can actually increase the risks to them and their children. For example, it can undermine their own strategies to keep their

⁷⁴ Yoorrook Justice Commission, "Yoorrook for Justice," see section D and also 128.

⁷⁵ Russell et al., "A Constellation of Circumstances," 5, 45.

children safe in family violence situations, or even place children with the parent who had been using violence:

“When Child Protection got involved and my child was removed... all [my risk management strategies and planning] was stripped from underneath me... the violence actually escalated.” (RT-FM1)

4.3.2 System interventions as causing psychological and emotional harm

Across the interviews, women also described how child removal, criminalisation and system involvement caused lasting and intergenerational emotional and psychological harm. Child removal and prolonged separation from children in particular were described as profoundly traumatic events:

“the most traumatising thing that I’ve ever experienced in my whole entire life is the removal of my child... when somebody’s already struggling so hard to survive, if you then remove their child, that’s pretty much their lifeline” (RT-FM1)

“So once the kids were taken from me, it just made me feel like there’s no point in even trying” (INT4)

This pain of child loss is exacerbated when mothers are in prison by their inability to easily contact their children. Permanent care orders were also described as particularly devastating. Although even when child protection contact is short-term and withdrawn, such contact causes permanent harm and disruption to women and children’s lives.

Many interviewees also described feelings of internalised shame and a breakdown in their sense of identity, particularly as mothers. They expressed how they had internalised the messages received through contact with the criminal legal and child protection systems – namely that they were ‘bad mums’ or had ‘failed their children’, even when they were actively seeking help or working to improve their situations. Moreover, this did not just cause distress at the time of intervention; rather, the emotional harms were still felt long after reunification with their children or recovery from substance use. This long-term emotional harm was often compounded by isolation, lack of support and the absence of pathways to heal or rebuild

relationships with their children and families. Interviewees also described how the emotional distress caused by child removal was later used by child protection as evidence of their supposed instability and unfitness to parent, continuing the cycle of system intervention. Instead of protecting women and children escaping family violence, interviewees described system interventions as exposing them to further trauma and punishing them for surviving abuse.

4.3.3 System interventions causing enduring stigma and surveillance

Many interviewees described feeling permanently marked by their past involvement with the child protection and the criminal legal systems. Even after their circumstances had changed (such as completing rehabilitation programs, finding permanent housing, being reunified with their children), their histories were still captured on system records. The permanency of system files was described by interviewees as creating ongoing worry that they would never be seen as trustworthy or capable parents again.

“That is always gonna be there... and it’s always gonna be able to be pulled up in any second.”
(INT3)

“You never get to wipe the slate clean. You’re always under the microscope.” (INT4)

Interviewees described how these records acted as a form of ongoing punishment, which limited their access to employment, support services or being able to care for children in the future. Interviewees shared specific examples of how Child Protection reports and criminal records, even ones that contained inaccurate information, could influence their ability to complete employment and parental-related screening many years later. As discussed above, the LACW file data revealed that ‘parental criminal legal contact’ was commonly noted as a protective concern by Child Protection, supporting interviewee’s sense that they are permanently flagged by these systems, even after their circumstances have changed. In this way, past interactions with child protection or police remain ‘on file’ and can be cited as justification for ongoing intervention, regardless of current circumstances.

Information sharing between agencies, especially between support services and child protection, was also highlighted as enabling this ongoing surveillance. Women's records functioned as sources of ongoing stigma, meaning that their pasts remained their defining identity and they were always seen as a risk:

"Like you can never feel safe going to help to going to going and asking for help for a service that is prescribed under MARAM or like just any service because of information sharing."
(RT-FM2)

Many interviewees also explained how the risks associated with information sharing led them not to seek help for their needs, especially from mainstream services, because they are 'so fearful of the repercussions' (RT-FM1). This limits women's options, further exacerbating experiences of crisis in their lives. It again demonstrates again how help-seeking for women can become a liability (see Section 4.2.2).

In this way, state records cause their own harms, functioning as tools of control and exclusion. Past harm, trauma and mistakes become evidence of future risk. Women become essentially trapped in systems that cannot recognise changes in circumstance, development or rehabilitation. As one interviewee noted, the services do not share information on all the ways in which women have healed and recovered. Criminal legal and child protection records cause harm by constructing risk as a permanent condition, and foreclosing the possibility – and reality – of change and healing. We also heard about the harms caused by publicly available digital information, for example details of women's criminal legal involvement being available through search engines which then impacts on their access to services like housing and rehabilitation.⁷⁶

4.3.4 There is no accountability for these system harms

The overlap between file review data and women's lived experiences makes clear that state systems are not simply failing to provide support – they are actively contributing to harm.

⁷⁶ Children affected by parental incarceration also indicate strong concerns around information sharing and consent, Flynn and Gor, "Living with a Parent," 22, 35.

Broom et al describe this as the ‘administration of harm’, where damaging outcomes are not accidental, but a predictable and embedded feature of institutional design.⁷⁷ Despite their potential appearance as unintended consequences, the recurring nature of these harms shows they are systemic and are continued through policy and practice decisions that prioritise risk and compliance over person-centred care. Interviewees described having little recourse to challenge systemic harm, even when acknowledged and where serious errors were made, and the financial and emotional burden was placed on them to navigate complex and inaccessible systems with no guarantee of redress. That is, while women are held individually responsible for their experiences of trauma and violence and their support needs, criminal legal and child protection systems are not accountable for the additional and serious harms they can cause.

4.4 Women at the system intersection experience a lack of access to legal information and legal representation

We heard that when Child Protection gets involved in their lives, women are not provided with information about their rights or support to find it. Instead, they have to work out by themselves what their rights are and where they can turn for support – which is almost impossible for women in custody. Rather their contact with child protection is marked by a sense of ‘rightslessness’:

“I didn’t know the first thing about how family courts were gonna work, I didn’t know how child protection worked, I had no, I never ever in a million years thought I would end up in that situation.” (INT1)

“A lot of the time if you don’t source this information out yourself, it’s not given to you, very rarely. And the information given out, anyway, is just minimal and this is a frustration that the women are having is they don’t know where to turn. They do not know where to turn, and the ongoing battle of trying to see their children or get their children back, can go on for years.” (INT2)

⁷⁷ Alex Broom et al., “The Administration of Harm: From Unintended Consequences to Harm by Design,” *Critical Social Policy* 43, no. 1 (2023): 55, <https://doi.org/10.1177/02610183221087333>.

“I think that’s one of the things with a lot of the interactions I’ve had with the system, whether that is like the police or whatever. It’s, it’s really hard to get accurate, transparent, just like honest information.” (INT3)

“if you don’t know what you’re asking for, which you have to be the one asking for it. And not a lot of people have that voice.” (RT-FM3)

For some women interviewed for this study, the interventions of child protection led to permanent care orders or long-term removal of their children. Yet, when faced with complex state systems intervening forcibly in their families’ lives, they bore the burden of both knowing their rights and working out how to advocate for them. These experiences led to feelings of powerlessness and abandonment, especially during times of crisis.

Interviewees did speak of benefitting from legal representation in relation to both child protection and criminal legal matters. They nevertheless described court proceedings and legal processes – especially child protection and family court – as inaccessible, non-transparent, traumatising and drawn out. Others faced barriers to legal support due to conflicts of interest or narrow eligibility criteria or had to represent themselves. It was noted that conflicts of interest can even be intentionally created by a partner contacting every legal service in the area to prevent the mother from accessing representation. Some interviewees reported receiving incorrect legal advice which had serious long-term consequences, for example leading to them being charged for breaching bail, signing legal agreements under pressure or being forced into legal processes they did not want to participate in. Other interviewees even spoke about being threatened, including by system workers, with escalating legal processes (for example, getting a court order, or starting proceedings in another jurisdiction) in order to get interviewees to agree to decision regarding their children’s care. Legal orders and agreements can also be highly complex to understand, especially for women who experience challenges in relation to literacy.

4.5 Women at the system intersection are not included in decision-making or able to have their voices heard

Interviewees described being excluded from decision-making processes and court processes.

'I had a child protection plan made without my like input, completely without it. There was an investigation opened. Child protection did not at any time actually manage to get in touch with me and have the conversation. They made a care plan.'

And in relation to separate court proceedings, they explained *'Nobody spoke in defence of me. My story was not like my side of the story was not shared at all.'* (RT-FM2)

In this way, women's accounts of their own and their children's needs are silenced, with no clear plan for them and their children to be reunified.

In practice, women in prison can face further barriers to participation.

'a lot of the time you don't get notified if you have got a child protection meeting, it just comes over the speaker and you've got to run' (RT-FM1)

We were told that women in prison may occasionally be notified of proceedings, but this was dependent on the worker and their capacity. If women are unable to attend child protection meetings due to being on remand or in prison, and not notified, they are not able to be part of important Children's Court or Family Court proceedings. In turn, this can have implications for whether their children are permanently removed from their care.

This lack of inclusion of women and their perspectives leads to them feeling erased or misrepresented in official documents and case files. Several women described how key documents, such as police reports, child protection files or court materials, failed to include their version of events. Even when they engaged with systems in good faith, their voices were either omitted or distorted.

'There is no police file that has records of my voice.' (INT3)

"They put words in your mouth... misinterpreted on purpose." (INT4)

This reflects more than poor communication or administrative failure – it reveals a type of narrative control. Across the child protection and criminal legal systems, interviewees describe how professionals (such as child protection caseworkers, police or legal representatives) constructed official accounts of events without their participation or consent. These accounts then informed interventions (including child removal, placement, contact conditions or criminal charges) in ways that interviewees felt powerless to challenge. Several interviewees

spoke of their inability to contest misinformation or contextualise their situations. This exclusion also undermined women's ability to advocate for themselves or parent their children.

'Everything that was said about me... everything that had none of my voice is just gonna be brought up.' (INT3)

'You can't even have a voice to speak to that, because they're making out that that's what you're saying' (INT4)

In this way, the interviewees seem to describe that they were not afforded a 'right of reply', even when they were portrayed in decontextualised or damaging ways.

Additionally, interviewees described the emotional toll of being unheard: feelings of invisibility, loss of agency and grief over decisions being made about them without their input. For them, it was associated with the stigma and blame they face as women and mothers:

'I don't think they even really try because like, we're "bad people"' (RT-FM2)

'I couldn't find anybody to believe my story' (INT1)

The interviewees' stories demonstrate that child protection and criminal legal systems work to 'fix' women's identities through institutional narratives. Once created (as noted above in Section 4.3.3), these narratives follow women across systems and over time, and further compound harms they experience through child protection and criminal legal contact. The systemic exclusion of women's voices represents a form of institutional violence, where power is maintained through one-sided narratives and discretionary authority.

4.6 For women who have been in prison, more support is needed to have contact and reunify with children

Women at the system intersection indicate that more support is needed to be able to have contact with their children while they are in prison.⁷⁸ We heard of multiple barriers to women having contact with their children, such as the mismatch between child-friendly prison visiting times (Sundays) and child protection worker availability (work hours), existing mother and baby units not being used to capacity, long distances between where children live and women

⁷⁸ While not all women will want their children to visit them in a prison environment, the ability to have consensual contact with their children should be available to all women.

are incarcerated, a difficulty in accessing information needed, lockdown restrictions inside prison, or when women have multiple children living in different care situations to each other.

'So the cost of phone calls in DPFC [Dame Phyllis Frost Centre] are \$12.00 for 10 minutes and at Tarrengower is \$10.00 for 12 minutes. And your average income is \$45.00 a week. So it becomes very difficult to contact multiple children and keep that contact going because you just can't afford everything... There's a limited number of phone boxes in the prison. So I think at DPFC, there's something like 7 phone boxes for 600 people and at Tarrengower there's three, for 30 to 70 people.' (FD1)

In practice, women at the system intersection may not be supported by Child Protection to have their children visit. One interviewee said that there was *'probably only one case I'm aware of'* where that actually happened (INT2). This is very problematic given the importance of regular consensual contact to the mother-child relationship and also women's continued involvement in child protection processes.

Women also face separate barriers in terms of reunifying and reconnecting with their children on release from custody. Sometimes activities and programs undertaken in prison may not be adequately recognised by Child Protection in terms of supporting reunification with their children after they leave prison. Women also require practical and material assistance on release to satisfy Child Protection reunification requirements, including access to housing, support networks and engagement with needed service providers, or to participate in Family Court proceedings when they are still in custody. They also need wraparound support on release generally. Trying to reconnect with children while also satisfying parole conditions in relation to alcohol and drug testing, curfews and geographical restrictions can also be challenging. There is also a need for programs that support women's parenting, relationship and communication skills. Spending time in prison can negatively impact on their parental identity and confidence, particularly if their children have grown and developed significantly during this time. Mothers and children need to be supported to remain close, including mothers who are incarcerated. Instead, women felt that the systems fail to protect mothers and their relationship with their children.

4.7 Women have to navigate multiple, conflicting systems themselves without support

Across all interviews, women described having to navigate multiple systems simultaneously (such as child protection, the criminal legal system, family law courts, police, Centrelink, housing and health) without support, and with little recognition by services of this broader context of women's lives. Instead, these systems functioned in siloed, contradictory and often punitive ways that created confusion, deepened crisis, and left women isolated at the most vulnerable points in their lives.

"there wasn't one support service in Victoria that went un-called by me... not one." (INT1)

'I've seen it time and time again with the women I work with. You know, a lot of them are mentally unwell, so they lose all their rights.... it's actually really heartbreaking' (RT-FM3)

Services have long waitlists (which can mean that a person's children are removed from their care before they get support) or standard ways of working (such as sending people letters, even if they do not have a fixed address) that compromise the support they can provide. Meanwhile, Child Protection workers can change or go on leave without adequate handover. Generally, women reported that it was distressing to have to repeat their stories multiple times to different people without having a central contact person, especially given the lack of support and advocacy available to women experiencing system intersection.

Efforts to comply with one system's requirements could clash with the expectations of another or meeting both could be practically impossible – for example, trying to attend court, maintain housing, comply with child protection reunification plans and undergo alcohol and drug testing, without transport or financial resources.⁷⁹ In other situations, accessing support from one system is dependent on receiving support from another, such as being able to have a release date to access housing but also needing housing to get a release date. Women felt particularly concerned about their lack of access to suitable housing, expressing a sense that services should be held accountable. Rather than working together to support women in crisis, these systems created unrealistic demands and then punished women for being unable to meet them. One interviewee summed this up clearly:

⁷⁹ See also Stone, Liddell, and Martinovic, "Jumping Hurdles," 16.

“Trying to navigate one [system] is hard enough... both is just rife.” (INT2)

However, while systems do not work together to support families, interviewees did feel as though the criminal legal and child protection systems collaborated in relation to their punitive impact on their lives: *‘they weaponise each other’* (RT-FM1).⁸⁰ In particular, the connection between criminal legal contact and child protection intervention was seen to be inevitable:

‘it’s automatic, like as soon as you’re incarcerated, child protection are involved. There’s no circumstances where one isn’t linked to the other’ (RT-FM1)

‘When I was due to be released from prison, [Child Protection] found out I was going back home to they got back involved and pretty much said I can’t live at home because of my charges ... as you’re getting out, they get involved no matter what’ (FD1)

The difficulty of navigating multiple systems was particularly evident in the stories of women who had survived family violence. The criminal legal system’s misidentification of women as responsible for family violence can lead to serious charges and subsequent automatic involvement with Child Protection. Women may also be charged with offences linked to their survival of family violence, such as drug use or offences committed while fleeing violent relationships. As discussed above, Child Protection also imposes compliance obligations on women experiencing family violence, effectively holding them responsible for the violence itself. In this context, family law court processes and child protection processes were often described as working in tandem in ways that disempowered women and led to the removal of their children. Generally, criminalised women felt that involvement with multiple systems was actually used ‘against them’, through information sharing and other experiences.

When interviewees did receive support to navigate these systems, they described this as chance or random: *‘always dependent upon who you get’* (INT4). Women spoke of positive experiences: a lawyer who listened to the whole story, a corrections officer who provided support and flexibility to support someone to rebuild their lives, a mental health worker who advocated for them and made them feel like they mattered. However, such positive experiences were attributed to individual workers rather than system design.

⁸⁰ See also Stone, Liddell, and Martinovic, “Jumping Hurdles,” 15–16.

'It's just such a luck of the draw... more often than not, you don't have someone in your corner.' (RT-FM1)

'The only positive experience I had was at Tarrengower. There was a really good family engagement worker that helped me when they got back involved towards the end of my sentence.' (FD1)

The interviews demonstrate how institutional fragmentation is not simply a benign consequence of bureaucracy – it actively compounds trauma for women in crisis. These overwhelming and fragmented systems contributed directly to the feelings of hopelessness and failure described in other parts of this analysis.

4.8 System bias: Race, Gender and Socio-Economic Advantage

Some interviewees highlighted how their treatment within the child protection and criminal legal systems was shaped by discrimination. Some women's stories reflect the way in which racialised women are subjected to harsher judgments and not afforded the same credibility as their non-racialised partners. Although our interviewees with Aboriginal and Torres Strait Islander-identifying women will be in Stage 2 of the project, other interviewees raised the disproportionate and discriminatory impact of the systems on Aboriginal women and families, the cultural biases built into assessment of risks to children and the continuities between the experiences of the Stolen Generation and current practices of child removal. As we noted above, the LACW file review also indicates that Aboriginal and Torres Strait Islander women are over-represented at the system intersection.

A common theme across interviews was the gendered double standards that shape women's treatment by the child protection and criminal legal systems. Many interviewees reported being held to stricter standards than fathers, and described how the responsibility for family breakdown, violence or child protection involvement was solely attributed to them, even when it was someone else committing the family violence.

'there can be umpteen amount of violence that's in place, but somehow, it's up to the mother to be able to provide that protection over the child and to stop the violence from occurring where it's completely out of your control and it's, you know, at the hands of the person that's using the violence.' (RT-FM1)

“for some stupid reason, society is like, no, mothers hold all of the responsibility and receive none of the support.” (RT-FM2)

As discussed above, women’s own experiences of violence are used to justify the removal of their children, and can even involve children being removed from mothers and placed with the parent who had been using violence (see Section 4.3.1 above). Or mothers may spend considerable time addressing the support needs in their life to be reunified with their children, while the person using violence engages with little or no support to address their behaviour and is held to a lower standard. Other people also spoke about barriers they faced to having contact with their child due to being in a same-sex relationship.

Socio-economic advantage also intersects with child protection involvement in complex ways. Even though all families require social and economic support in order to thrive, some women and families have greater access to the financial and other material resources they need to meet their and their family’s needs.⁸¹ For example, women in this study were largely reliant on public supports, such as publicly funded drug and alcohol counselling, whereas others might be able to access these privately. Someone’s socio-economic advantage is also seen to influence assessments of risk – for example, affecting which forms of drug and alcohol use are more stigmatised.

4.9 Strength, love and care

Throughout this report, we have emphasised women’s unmet needs, experiences of harm and trauma and the structural barriers and inequities they faced. But another strong theme from our interviews on this project was the strength, resilience and care of all the interviewees. Despite their experiences of harm and the lack of care they received from the systems that intervened in their lives, they spoke of the ways in which they tried to make the best decisions they could at the time for themselves and their children – reaching out for help, trying to manage risks in their lives, trying to ensure their children had the most nurturing care arrangements in the circumstances. They tried to engage with supports and tell their stories to systems that did not always hear them, or hear them well. They kept going despite

⁸¹ See, for example, Brid Featherstone in “Poverty, Practice and Social Context”, <https://www.exchangewales.org/podcasts/>.

the devastating loss of custody of their children and they continue to try and foster a relationship with their children in the ways that are available to them.

'I just want to be part of their lives' (INT4)

Despite the lack of care and humanity in how they were sometimes treated, the transformative power of care was clear in what interviewees shared with us. They spoke about the strength found in solidarity, community connection and storytelling. Peer support, especially from other women who had experienced child protection and criminal legal system interventions, was described as validating, empowering and one of the only sources of consistent care:

"The only time I got real help was from someone who had actually been through it. She understood." (INT3)

Interviewees highlighted the need for a 'humanised' system as one of their key ideas of what a better response to their situations could have been; one that can *'nurture women back to being able to get that capability to be a parent again'* (RT-FM3).

Finally, the women who participated in the study illustrated their immense care for others. They emphasised the need to foreground the impact of the system intersection not just on them, but also on their children - that systems currently work in a way that remove children from their families and potentially place them in residential care, which can affect their children's educational, social and relational opportunities and make them more at risk of criminal legal contact. Many said they were keen to help others in their situation, despite sometimes having limited resources or being in contact with the systems themselves and these systems creating barriers to supporting each other. Most interviewees also now devote considerable time in their lives to helping others (researchers, government departments, organisations) understand their experiences better and what is needed. They expressed being happy to participate in the study to try and make systems better in the future for others.

"Hopefully this helps bring change." (INT4)

4.10 What a better response would look like

When they were asked *'what a better outcome would have looked like and what supports were needed for this?'*, interviewees identified a range of important shifts and initiatives.

Collectively, they indicate the fundamental reforms are needed to transform how the child protection and criminal legal systems intersect and how they can better respond to women's needs. All of these are reflected in our project recommendations.

Key shifts recommended by interviewees:

- **Build up a range of alternative, community-based supports for women and their families** and subsequently remove police and child protection practitioners as first responders to women's and children's unmet support needs.
- **'Housing, housing, housing' - access to safe and affordable housing** was highlighted as a key unmet need that often leads to women experiencing the system intersection.⁸²
- **Generally, investing resources in responding to the underlying needs** that affect women's involvement with the child protection system and criminal legal system and their ability to reunify with their children.
- **Non-judgemental and solution-focused responses** to women, families and their needs. There is a need to **work against discriminatory, stigmatising and blaming social attitudes and system responses**, which cause further harm to women and children. Instead, solution-focused, strengths-based and supportive responses are needed to help women and families' address their unmet non-legal needs in relation to drug and alcohol use, family violence, housing insecurity and mental health challenges. **Social and legal attitudes and responses to drug use particularly** need to change. Services should be held accountable if they are discriminatory to women on the basis of their criminal legal contact.
- **Women need to be able to move on from the past**, rather than having past behaviour and coping strategies continually held against them. This includes having their 'digital histories' deleted, so service providers and others cannot easily find information about their criminal records, including on public web searches.
- **Early intervention holistic, wraparound support focused on keeping families together**, rather than later fragmented, punitive intervention that removes children at a time of crisis.
- **Humanistic or humanised support**. In contrast to the lack of care and punitive responses women currently experience, they called for more humane or humanised approaches that treat people as though they matter and are person-centred, supporting women in their diversity.

⁸² In fact, given the emphasis of interviewees on the significance of housing, it is notable that housing is not included as a right in the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

- **Learn from and prioritise lived expertise and peer support.** Lived expertise advocacy and leadership in practice, policy development and training was emphasised as crucial – including within the child protection system itself. Relatedly, peer support – informed by lived expertise – was transformative to the lives of women at the system intersection and showcased a best-practical non-judgmental, solution-focused, humanistic and strengths-based approach. Peer led communities that support women, especially young mothers, to be the parents they know they can be.

These transformative changes reflect the long-term advocacy of community organisations and critical Indigenous and abolitionist scholars for holistic, community-led and explicitly non-punitive responses to disadvantage, which remove our reliance on punitive and carceral systems.⁸³

Interviewees were also able to highlight **discrete initiatives** that could contribute to the above shifts in practice:

- **Independent advocates** who work with women from their first contact with child protection to understand their rights and legal processes and walk alongside them during the process – extending a model similar to the important support provided by Grandmothers Against Removal to Aboriginal women and their families.⁸⁴ Generally, having support from workers and organisations that are **independent to the child protection and criminal legal systems** and **better information on their rights** was important.
- Better supports to enable women to maintain relationships with families while in prison including:
 - free, untimed phone calls

⁸³ Veronica Gorrie, ed., *When Cops Are Criminals* (Brunswick, Victoria: Scribe, 2024); Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); *Who Are the Real Criminals? Making the Case for Abolishing Criminology*, 2021, <https://www.youtube.com/watch?v=B6uwQyIOyv4>; Latoya Aroha Rule, Lilly Brown, and Natalie Ironfield, “Incarceration Nation Exposes the Racist Foundations of Policing and Imprisonment in Australia, but at What Cost?,” *The Conversation*, August 30, 2021, <http://theconversation.com/incarceration-nation-exposes-the-racist-foundations-of-policing-and-imprisonment-in-australia-but-at-what-cost-165951>; Nayuka Gorrie, “Imagining A World Beyond Police And Prisons,” *GQ Australia*, October 28, 2020, <https://www.gq.com.au/success/opinions/imagining-a-world-beyond-police-and-prisons/image-gallery/648dc94fa2ab96abf61b488138c50d69>; *Abolition on Indigenous Land: Alternative Futures and Criminology’s Role*, 2021, https://www.youtube.com/watch?v=peA6_WdIbtE; Dorothy Roberts, *Torn Apart: How the Child Welfare System Destroys Black Families--And How Abolition Can Build a Safer World* (New York: Basic Books, 2022); Austin, “Our Kids Belong with Family.”

⁸⁴ “GMAR Victoria,” Woor-Dungin, accessed June 18, 2025, <https://www.woor-dungin.com.au/gmarvictoria>.

- greater support for children to visit their parents – including clear obligations on carers to support visits (with funding and assistance to do so), and coordination by an independent service outside of child protection and the criminal legal system
- a Child Protection worker or workers in prison (see, for example, the successfully evaluated New South Wales co-located caseworker program).⁸⁵
- **Better, early training for all workers and organisations who have contact with women at the system intersection and their families** to understand the underlying reasons why women come into contact with the criminal legal and child protection systems and how they can best be supported in a humane, strengths-based and family-centred way. Trainings based on the information in and findings of this report, accompanied by lived expertise perspectives, should be developed. This training should happen early in people’s education or training to work in these roles, and should be required for people working in Child Protection, Corrections and Parole, community support services, family and criminal lawyers and support services that engage with criminalised women (such as those assisting people with alcohol and drug use, mental health challenges, housing insecurity, and family violence). Having this training delivered early in a worker’s professional development is needed to work against ‘cultural’ or ‘institutional’ knowledge at these organisations.
- **Funding to meet need (and access to services, such as Family Support Packages)** through the non-mainstream community organisations who women currently turn to and trust for help.

Conclusion and Recommendations

This project aimed to learn from women’s experiences of the intersection between the child protection and criminal legal systems. The project findings and data demonstrate that fundamental reforms are needed to transform how the child protection and criminal legal systems intersect and how they can better respond to women’s needs. Although interviewees did not frame their experiences in human rights terms, their accounts reveal systemic harms that appear inconsistent with the rights protected under the *Charter of Human Rights and Responsibilities Act 2006* (Vic). The stories of women in this report reveal that women at the intersection experience discrimination and stigma, and are routinely subject to decisions that

⁸⁵ See Gibson et al., “Supporting Incarcerated Mothers”.

undermine their rights to equality, family, privacy and humane treatment. These harms persist even though the public authorities that constitute ‘the intersection’ are required to act compatibly with the Charter.

Emerging from the practice experience of community organisations supporting women at the intersection and their drive to understand women’s experiences better, this project has brought together community organisations, academic researchers and lived experience experts and collectives. The project reveals the value of such collaborative work to address systemic injustice. Legal practice can support women experiencing the intersection by working with lived experience advocates and trusted community service providers.⁸⁶ Effective child protection practice could pursue Charter-based complaints and discrimination matters, and pursue strategic cases that expose systemic harm. Legal services must also reflect the holistic, human-centred support women said they need. Community legal centres should be funded to engage with women in early stages of child protection intervention to offer non-judgemental, strengths-based advocacy focussed on keeping families together.

The following recommendations outline key changes identified to support a better, supportive and rights-based system. These are recommendations that emerge directly from this project and the stories and advice of the women involved. However, they echo the recommendations of many significant reports and policy platforms,⁸⁷ underscoring the need for action.

RECOMMENDATION ONE: Data

Better data collection is needed on the extent and nature of women’s experiences of the system intersection. Future data collection initiatives and research should specifically examine in more detail: the over-representation of Aboriginal and Torres Strait Islander women at the system intersection; whether children of women at the system intersection may be placed in out-of-home care at a younger age than other Victorian children; and the overlap between experiences of out-of-home care as a child and later contact with the child protection and criminal legal systems as a mother.

RECOMMENDATION TWO: Fund and prioritise community-based and needs-based support

⁸⁶ For a related recommendation, see also Campbell, Macmillan, and Caruana, “Women Transforming Justice,” 10.

⁸⁷ See, for example, the Yoorrook Justice Commission, “Yoorrook for Justice,”; Legislative Council Legal and Social Issues Committee, “Inquiry into Children,”; Campbell, Macmillan, and Caruana, “Women Transforming Justice,” and the Federation of Community Legal Centres Policy Platform (to be released).

Prioritise and fund according to demand community-based, early intervention and wraparound supports for women and their families that address their unmet support needs, particularly in relation to:

- alcohol and drug use;
- family violence;
- mental health challenges;
- housing.

thereby removing the involvement of the child protection and criminal legal systems from women and children's lives.

RECOMMENDATION THREE: Housing, housing, housing

Ensuring funding and access to safe and affordable housing is an overriding priority to enable women to keep their children safe and reunify with their children.

RECOMMENDATION FOUR: Fund community organisations

Fund, according to demand, the trusted community-based organisations that women at the system intersection turn to for help, to ensure they can provide the services needed.

RECOMMENDATION FIVE: Social and cultural training

Better, early training for all workers and organisations who have contact with women at the system intersection and their families to understand:

- the underlying reasons and unmet support needs that have resulted in women coming into contact with the criminal legal and child protection systems
- how to respond in a non-judgemental, solution-focused, humane, family-centred and strengths-based way.

This training should:

- include lived expertise insights and participants;
- be required for people working in Child Protection, Corrections and Parole, community service providers, family and criminal lawyers and support services that engage with criminalised women (such as those assisting people with alcohol and drug use, mental health challenges, housing insecurity, and family violence);
- include Aboriginal and Torres Strait Islander expertise and lived experience;
- occur early in their education or training.

RECOMMENDATION SIX: Broader societal change

Investigate and develop recommendations in relation to enabling changes in broader societal attitudes and approaches to women at the system intersection and the discrimination and bias they currently face.

RECOMMENDATION SEVEN: Independent advocates

Women are linked in with independent advocates who work with women from their first contact with Child Protection to understand their rights and legal processes and walk alongside them during the process – extending a model similar to the important support provided by Grandmothers Against Removal to Aboriginal women and their families.

RECOMMENDATION EIGHT: Discrimination on the basis of criminal record

Further investigate and develop recommendations to address the harm and bias in service provision experienced by women at the system intersection due to criminal records, or due to permanent, partial and incorrect state records, and because of information sharing and publicly available information sources (such as various internet sources and social media platforms).

RECOMMENDATION NINE: Better supports to enable women to maintain relationships with families while in prison

As recognised by the Victorian parliamentary inquiry into parental incarceration, this necessarily includes:

- free, untimed phone calls;
- greater support for children to visit their parents – including funding support, obligations on and support for carers to facilitate visits, and support that is independent from both systems to facilitate visits;
- a Child Protection worker or workers in prison (see, for example, the successfully evaluated New South Wales co-located caseworker program).

RECOMMENDATION TEN: Lived expertise and peer support

Learn from, prioritise and adequately fund:

- lived expertise leadership;
 - peer support models;
- in advocacy, practice, policy development and training.

RECOMMENDATION ELEVEN: Fund and evolve legal services to support women at the intersection

Provide dedicated funding to community legal centres and advocacy organisations to support women navigating both the child protection and criminal legal systems. This should include:

- Representation in child protection matters, including decision reviews and reunification support;
- Strategic litigation and complaints under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and anti-discrimination legislation;
- Advocacy to address structural discrimination and harm;
- Person- and family-centred legal practice that embeds lived expertise and trauma-informed approaches;
- Greater use of rights-based legal strategies and collaboration with trusted community organisations.

Legal services must be resourced to evolve their practice and play an active role in the various systemic changes called for by women.

Reference List

- Abolition on Indigenous Land: Alternative Futures and Criminology's Role*, 2021.
https://www.youtube.com/watch?v=peA6_WdIbtE.
- Anthony, Thalia, and Gemma Sentance. "The System Doesn't Care about Our Aboriginal Children: First Nations Mothers in Prison." *Precedent (Sydney, N.S.W.)*, no. 159 (August 1, 2020): 22–27.
- Anthony, Thalia, Gemma Sentance, and Larissa Behrendt. "'We're Not Being Treated Like Mothers': Listening to the Stories of First Nations Mothers in Prison." *Laws* 10, no. 3 (September 13, 2021): 74. <https://doi.org/10.3390/laws10030074>.
- Austin, Sissy. "'Our Kids Belong With Family': A Look into Institutional Child Removal." *Indigenous X* (blog), February 16, 2022. <https://indigenoux.com.au/our-kids-belong-with-family-a-look-into-institutional-child-removal/>.
- Australian Bureau of Statistics. <https://www.abs.gov.au/articles/victoria-aboriginal-and-torres-strait-islander-population-summary>.
- Australian Institute of Health and Welfare. "Child Protection Australia 2022–23, Supporting Children." Australian Institute of Health and Welfare, May 16, 2025. <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/insights/supporting-children>.
- . "Data Tables: Child Protection Data Australia 2022–23." Australian Institute of Health and Welfare, May 16, 2025. <https://www.aihw.gov.au/reports-data/health-welfare-services/child-protection/data>.
- . "The Health and Welfare of Women in Australia's Prisons." Canberra: AIHW, 2020.
- Australia's National Research Organisation for Women's Safety. "Women's Imprisonment and Domestic, Family and Sexual Violence: Research Synthesis." ANROWS Insights. Sydney, NSW: Australia's National Research Organisation for Women's Safety Limited (ANROWS), March 2020. <https://www.anrows.org.au/publication/womens-imprisonment-and-domestic-family-and-sexual-violence/>.
- Baidawi, Susan, and Rosemary Sheehan. "'Crossover Kids': Offending by Child Protection-Involved Youth." *Trends & Issues in Crime and Criminal Justice*. Australian Institute of Criminology, December 2019. https://www.aic.gov.au/sites/default/files/2020-05/ti582_crossover_kids-v2.pdf.
- Behrendt, Larissa. "Stories and Words, Advocacy and Social Justice: Finding Voice for Aboriginal Women in Australia." *Australian Feminist Law Journal* 45, no. 2 (July 3, 2019): 191–205. <https://doi.org/10.1080/13200968.2020.1837538>.
- Braun, Virginia, and Victoria Clarke. *Thematic Analysis: A Practical Guide*. Los Angeles: Sage, 2022.
- Broom, Alex, Michelle Peterie, Katherine Kenny, Gaby Ramia, and Nadine Ehlers. "The Administration of Harm: From Unintended Consequences to Harm by Design." *Critical Social Policy* 43, no. 1 (2023): 52–75. <https://doi.org/10.1177/02610183221087333>.
- Campbell, E, L Macmillan, and C Caruana. "Women Transforming Justice: Final Evaluation Report." Centre for Innovative Justice, RMIT University, Melbourne, 2020.
- Caruana, C, E Campbell, T Bissett, and K Ogilvie. "Leaving Custody behind - Foundations for Safer Communities and Gender-Informed Criminal Justice Systems: Issues Paper." Melbourne: Centre for Innovative Justice, RMIT University, 2021.
- Cataldo, Morgan Lee, Berry Street, Sigrid Rynehart, Dr Carolynne White, and Katie Larsen. "Remembering Radical Roots: Lived Experience Participation Movements and the Risks and Responsibilities of Co-Design in Community-Led Change," n.d.

Charter of Human Rights and Responsibilities Act 2006 (Vic)

Children, Youth and Families Act 2005 (Vic)

Commission for Children and Young People. “Always Was, Always Will Be Koori Children: Systemic Inquiry into Services Provided to Aboriginal Children and Young People in out-of-Home Care in Victoria.” Melbourne: Commission for Children and Young People, 2016.

———. “‘In Our Own Words’: Systemic Inquiry into the Lived Experience of Children and Young People in the Victorian out-of-Home Care System.” Melbourne: Commission for Children and Young People, 2019.

———. “Keep Caring: Systemic Inquiry into Services for Young People Transitioning from out-of-Home Care.” Melbourne: Commission for Children and Young People, 2020.

———. “Let Us Learn: Systemic Inquiry into the Educational Experiences of Children and Young People in out-of-Home Care.” Melbourne, November 2023.

———. “Our Youth, Our Way: Inquiry into the Overrepresentation of Aboriginal Children and Young People in the Victorian Youth Justice System.” Melbourne: Commission for Children and Young People, 2021.

———. “Out of Sight: Systemic Inquiry into Children and Young People Who Are Absent or Missing from Residential Care.” Melbourne: Commission for Children and Young People, 2021. <https://ccyp.vic.gov.au/assets/Publications-inquiries/Out-of-sight-inquiry-report-Web>.

Davis, Angela Y. *Are Prisons Obsolete?* New York: Seven Stories Press, 2003.

ExChange Wales. “Poverty, Practice and Social Context.” Accessed June 20, 2025. <https://www.exchangewales.org/podcasts/>.

Flat Out Inc. “FIGJAM - Formerly Incarcerated Justice Advocates.” Accessed May 22, 2025. <https://www.flatout.org.au/figjam>.

Flynn, Catherine, and Anna Eriksson. “Children of Prisoners.” In *The Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice*, edited by Antje Deckert and Rick Sarre, 437–48. Cham: Springer International Publishing, 2017. https://doi.org/10.1007/978-3-319-55747-2_29.

Flynn, Catherine, and Kathryn Gor. “Living with a Parent in Prison: Learning from Young People.” Report. Monash University, February 4, 2025. <https://doi.org/10.26180/28340528.v1>.

Gibson, Althea, Marc Rémond, Peta MacGillivray, Eileen Baldry, and Elizabeth Sullivan. “Supporting Incarcerated Mothers: A Mixed Methods Evaluation of the NSW Co-Located Caseworker Program.” Trends and Issues in Crime and Criminal Justice. Canberra: Australian Institute of Criminology, January 2025. <https://doi.org/10.52922/ti77741>.

Gorrie, Nayuka. “Imagining A World Beyond Police And Prisons.” *GQ Australia*, October 28, 2020. <https://www.gq.com.au/success/opinions/imagining-a-world-beyond-police-and-prisons/image-gallery/648dc94fa2ab96abf61b488138c50d69>.

Gorrie, Veronica, ed. *When Cops Are Criminals*. Brunswick, Victoria: Scribe, 2024.

Hart, A., and M. Field-Pimm. “Whose Responsibility? Reexamining Victorian Justice System Responses to the Children and Families of Parents in Prison.” *Australian Journal of Social Issues* 57, no. 2 (2022): 274–88. <https://doi.org/10.1002/ajs4.192>.

Johns, Diana, Catherine Flynn, Maggie Hall, Claire Spivakovsky, and Shelley Turner. *Co-Production and Criminal Justice*. 1st ed. London: Routledge, 2022. <https://doi.org/10.4324/9780429328657>.

Jones, J., M. Wilson, E. Sullivan, L. Atkinson, M. Gilles, P.L. Simpson, E. Baldry, and T. Butler. “Australian Aboriginal Women Prisoners’ Experiences of Being a Mother: A

- Review.” *International Journal of Prisoner Health* 14, no. 4 (2018): 221–31.
<https://doi.org/10.1108/IJPH-12-2017-0059>.
- Koorie Youth Council. “Ngaga-Dji (Hear Me): Young Voices Creating Change for Justice.” Melbourne: Koori Youth Council, 2018.
- Law & Advocacy Centre for Women. “Inquiry into the Children of Imprisoned Parents.” Carlton, Victoria, April 19, 2022. <https://www.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-children-with-imprisoned-parents/>.
- Legal and Social Issues Committee, Legislative Council. “Inquiry into Children Affected by Parental Incarceration.” Parliament of Victoria, August 2022.
- Libesman, Terri, Paul Gray, and Kirsten Gray. “The Shackles of Terra Nullius in Child Protection ‘Reforms.’” In *Legal Education Through an Indigenous Lens*, by Nicole Watson and Heather Douglas, 53–70, 1st ed. London: Routledge, 2024.
<https://doi.org/10.4324/9781003473404-5>.
- Lobo, Jude, and Mark Howard. “Women in Prison: An Examination of the Support Needs of Women in Custody with Children.” Correction Research Evaluation and Statistics. Corrective Services NSW, March 2021.
<https://correctiveservices.dcj.nsw.gov.au/documents/research-and-statistics/women-in-prison-research-brief.pdf>.
- McGrath, Joanne, Monique Lhussier, Stephen Crossley, and Natalie Forster. “‘They Tared Me with the Same Brush’: Navigating Stigma in the Context of Child Removal.” *International Journal of Environmental Research and Public Health* 20, no. 12 (January 2023): 6162. <https://doi.org/10.3390/ijerph20126162>.
- Roberts, Dorothy. *Torn Apart: How the Child Welfare System Destroys Black Families--And How Abolition Can Build a Safer World*. New York: Basic Books, 2022.
- Rule, Latoya Aroha, Lilly Brown, and Natalie Ironfield. “Incarceration Nation Exposes the Racist Foundations of Policing and Imprisonment in Australia, but at What Cost?” *The Conversation*, August 30, 2021. <http://theconversation.com/incarceration-nation-exposes-the-racist-foundations-of-policing-and-imprisonment-in-australia-but-at-what-cost-165951>.
- Russell, Emma, Bree Carlton, Danielle Tyson, Hui Zhou, Megan Pearce, and Jill Faulkner. “A Constellation of Circumstances: The Drivers of Women’s Increasing Rates of Remand in Victoria.” Melbourne: Fitzroy Legal Service and the La Trobe Centre for Health, Law and Society, 2020.
- Segal, Leonie, Sharon Dawe, Ha Nguyen, Susan Dennison, Emmanuel S. Gnanamanickam, Megan Bell, Matthew Spittal, Stuart Kinner, and David B. Preen. “Child Protection System Involvement in Children of Incarcerated Mothers: A Linked Data Study.” *Child Abuse & Neglect* 139 (May 1, 2023): 106126.
<https://doi.org/10.1016/j.chiabu.2023.106126>.
- Segrave, Marie, and Bree Carlton. “Women, Trauma, Criminalisation and Imprisonment.” *Current Issues in Criminal Justice* 22, no. 2 (November 2010): 287–305.
<https://doi.org/10.1080/10345329.2010.12035887>.
- Sentencing Advisory Council. “Rethinking Sentencing for Young Adult Offenders.” Melbourne: Sentencing Advisory Council, 2019.
- Sheehan, Rosemary, and Gregory Levine. “Parents as Prisoners: Maintaining the Parent-Child Relationship,” 2007. Cinch.277226.
<https://search.informit.org/doi/10.3316/cinch.277226>.
- Sherwood, Juanita, and Sacha Kendall. “Reframing Spaces by Building Relationships: Community Collaborative Participatory Action Research with Aboriginal Mothers in Prison.” *Contemporary Nurse* 46, no. 1 (December 1, 2013): 83–94.
<https://doi.org/10.5172/conu.2013.46.1.83>.

- Stone, Una, Marg Liddell, and Marietta Martinovic. "Incarcerated Mothers: Issues and Barriers for Regaining Custody of Children." *The Prison Journal* 97, no. 3 (2017): 296–317.
- . "Jumping Hurdles: The Myriad of Issues and Barriers for Incarcerated Mothers to Regain Custody of Children." *Justice Policy Journal* 12, no. 1 (March 1, 2015): 1–23.
- Victorian Aboriginal Legal Services. "A Plan for Aboriginal Justice in Victoria: Empowerment, Identity, Culture." Melbourne: Victorian Aboriginal Legal Services, 2022.
- Who Are the Real Criminals? Making the Case for Abolishing Criminology*, 2021.
<https://www.youtube.com/watch?v=B6uwQylOyv4>.
- Wilson, Jacqueline Z., Philip Mendes, and Frank Golding. "Hope Street: From Voice to Agency for Care-Leavers in Higher Education." *Life Writing* 15, no. 4 (October 2, 2018): 597–609. <https://doi.org/10.1080/14484528.2018.1427420>.
- Women and Mentoring. "Speaking from Experience: A Framework to Drive Change." Melbourne: Women and Mentoring, 2025.
- Woor-Dungin. "GMAR Victoria." Accessed June 18, 2025. <https://www.woor-dungin.com.au/gmarvictoria>.
- Yoorrook Justice Commission. "Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems," 2023.