

*Parents as prisoners: maintaining the parent-child relationship*

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## **Summary**

Children of parents who are or have been in prison often endure considerable disruption in their care, receive negligible material support and experience difficulty maintaining family ties. They are a uniquely vulnerable group of children, who may come into contact with child protection and welfare agencies and become the subject of child protection proceedings in children's courts. The children present particular challenges to legal and welfare decision makers in relation to maintaining relationships between the children and their parents. Little is known about this group of children, about the impact on them of their parents' offending and imprisonment and the ways, if any, that child welfare services and children's courts respond to their distinctive circumstances.

This report describes the study undertaken in the Melbourne Children's Court from June to December 2006, that set out to identify the extent to which children involved in child protection proceedings had parents who were currently or previously in prison, or were awaiting sentencing. It sought also to examine the impact of parental imprisonment on these children, to examine their care histories to discover what factors impact on their stability of care, and to propose ways the court and welfare systems should respond to these children's special circumstances. There were 156 children identified by magistrates as meeting these criteria during the study period. Data was gathered about the child protection proceedings, parental involvement with the criminal justice system, the child's age and family composition, care arrangements, information about their health and education, and about any support services and interventions involved with the child and family.

The children in the study were in the Children's Court predominantly because of concerns about physical and emotional harm, concerns about child development, or the parent's incapacity to provide care for the child. A number of the children were already in the care of grandparents, or other family, prior to their parent's incarceration, because of abuse or neglect, or were placed with their grandparents and other relatives as a result of the court proceedings. The fragmentation of these children's lives was linked to their parents' offending, problems with substance abuse, mental health, family violence and transience. The parents in the study were in prison mainly for theft, drug related offences, violence and assault and armed robbery. One-third of the children in the study had been known to the child protection service from between birth and two years of age, and were already subject to child protection orders that removed them from their parents' care. Children often moved between parents and alternative care and had intermittent or no contact with their parents in prison, issues such as distance, transport services, the cost of visiting prisons and the lack of child friendly access arrangements in the prison, strained relationships between children, their parents and extended family.

Thus, family connections that are already tentative for these children can break down completely, and the children move into foster care. Changes in schools, in place of residence, in access to friendships, leisure and community activities create significant instability for these children, which may have life-long consequences, making the children vulnerable to mental health and relationship problems, to poor education and employment outcomes. The impact of these experiences on the children was reflected in the reasons why the children came to the attention of the court, and in the health, welfare and behavioral concerns expressed about them.

What emerged as a consequence of the study was that there was no co-ordinated response by the child protection and justice systems to managing these children's situations, no formal case-planning process that brought together the key stakeholders in decisions about, for example, children and their care. It was clear that it is essential for all agencies and organisations who work with the children of prisoners, collaborate to identify the needs of these children: schools, child care agencies, foster care agencies, and health professionals, to ensure a comprehensive approach to these children's issues and co-ordinated responses. What also emerged was difficulty obtaining cases and information for the study. Court records offered scant information about parental imprisonment; cases were unpredictable in the way the way they were presented at court as was information about parental circumstances, making it difficult for magistrates to identify whether or not a case could be referred to the study; and magistrate assignment to the court combined with busy workload meant cases relevant to the study were not always referred to the study.

The study recommends that the child protection service develop protocols with the corrections system about the children of adults who are primary carers when they enter prison, about who takes responsibility for their dependent children and the nature of the children's care. It recommends also that there is a formal case-planning process instituted for each child, in this situation, either immediately prior to imprisonment, or very soon after imprisonment. Such formal case-planning can decide what should be the children's living circumstances, who should care for them, and about the prospects for family reunification. Earlier intervention by the child protection service for these children is recommended when it is identified that parents' offending is creating instability for the child and disrupting their care, their schooling, their child development.



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## **Chapter One: Introduction**

### **1.1. Background to the project**

The study reported herein follows a pilot study undertaken in the Melbourne Children's Court in 2004 that identified the fragmented nature of the lives of children with a parent in prison. The Criminology Research Council made it possible to examine more fully the cohort of children who appeared before the Melbourne Children's Court during the study period June to December, 2006, who were both the subject of child protection concerns and who had a parent in prison, or who had previously been in prison or was awaiting sentencing.

Children of parents who are in prison, or have been imprisoned, are a uniquely vulnerable group of children, yet little is known about what happens to these children while their parent is in prison, where they live and how they are cared for (Woodward 2003: *Australian Government Department of Family and Community Services*). The South Australian Government's Report *Children of Prisoners Project* (2005), found that despite a substantial increase in the numbers of prisoners in Australia (a three percent increase in the year 2003 - 04) there was scarce information available about the parenting status of those in the prison system. This Report (2005:7) refers to the children of prisoners as "the forgotten victims of crime", who are not afforded the priority their situation warrants in terms of public policy and health and welfare resource allocation. The lack of information gathered by the prison system about the parental status of prisoners and the fate of their dependent children is confirmed by the Victorian Association for the Care and Resettlement of Offenders (Hannon, 2006). This

invisibility of the children of parents in prison is mirrored by Murray (2007) who found parenting status and children's circumstances received little, if any, attention in British Government reports or prison statistics. The Child Welfare League of America (2003) report that it is difficult to confirm the numbers of parents who are prisoners or the numbers of children of prisoners in the USA; Ross, Khashu and Wamsley (2004) set out to determine the extent to which children in statutory foster care had parents who had been in prison but found great difficulty gathering necessary statistical data, because it was not officially recorded.

Consequently, there is negligible research about the impact on the child of their parent's incarceration, most especially when it is maternal incarceration, and what consequences there are for child development and family mental health (Seymour, 1998). Whilst the number of children in Australia who have a parent in prison is unknown, the South Australian Government's Report *Children of Prisoners Project* (2005), records that in NSW in 2001 around 14,500 children under 16 years of age had a parent in prison, although firm figures are difficult to establish (Larman and Aungles, 1992). It is estimated that 75% of female prisoners in Australia are the mothers of dependent children (Office of the Correctional Services Commissioner, 1996); these children are young with a significant proportion under six years of age (Guransky, Harvey, McGrath and O'Brien, 1998).

## **1.2. Parents in prison**

The rising incarceration rates of women means there is an increasing group of young children who are vulnerable and at risk (Reed and Reed, 1997). In 2004, it was estimated in Victoria that there were approximately 4,000 children affected by parental imprisonment (Corrections Victoria 2004). In the US, more than 1.5 million children have a parent in prison (Mumola, *US Dept. of Justice Special Report*, 2000). In Victoria there has been a 58% increase in the

number of women sentenced to prison between 1994-2000, compared with a 19% increase in men sentenced (Department of Justice, Victoria, *Annual General Report*, 2001). Whilst female prisoners represent approximately 7% of the prison population across Australia, female prisoners are generally young, and have dependent children. Life before prison for many women and their children is marked by unsettled housing, low incomes, substance abuse, mental health problems, family violence and child abuse and neglect (McGuigan and Pratt, 2001; Humphreys, Mullender, Lowe, Hague, Abrahams and Hester, 2001; Stanley and Goddard, 2004).

The vulnerability of these children can bring them into contact with the child protection system and other welfare services. Yet, the likelihood of court proceedings is not referred to in any discussion about the impact on children of parental imprisonment (Hannon, 2006). This is despite the fact that those proceedings play an important part in determining what the circumstances of those children will be while the parent or parents are prisoners. Important decisions are made about with whom the child will reside, the amount of contact with the imprisoned parent and critically whether guardianship rights pass to a Government agency or to another person as part of long-term care arrangements.

### **1.3. Care and protection concerns**

When these children become the subject of child protection proceedings in the Children's Court they present particular challenges to the court. Legal and welfare decision makers attempt to keep children's relationships with their parents intact, yet are confronted by child-care arrangements or family disputes that make it difficult to facilitate or normalise contact between children and their prisoner parent. A number of these children will have started their care with grandparents, prior to their parent's incarceration, because of abuse or neglect, or

are placed with grandparents and other relatives while their parent is in prison- whether or not they are able to effectively care for the child (Phillips and Bloom, 1998; Farrell, 1998). This creates financial strain, physical strain, isolation for the extended family and can strain relationships. Many women's prisons, in particular, are located in areas of geographical isolation from major cities. Issues such as distance, transport services, the cost of visiting prisons and the lack of child friendly access arrangements in the prison, make contact between children and parents difficult, and cause significant stress for all parties (Stanley and Byrne, 2003).

Temin (2001) proposes that, in the US, active steps are taken to address the problems noted above. She recommends low cost or free transportation is provided to enable children to visit imprisoned parents regularly, that women's prisons provide accommodation for mothers and their young children. Breen (1995) has also proposed, in the US, better contact provisions for children with their parent in prison. He described the development of visiting centres at prisons in California that also offered family support services, which greatly assisted children to manage the challenges of parental imprisonment.

Children of women who are prisoners endure considerable disruption in their care, often receive negligible material support and experience difficulty maintaining family ties (Farrell, 1997; Healey, Foley and Walsh, 2000; Guransky et al., 1998). Children of women who are sole parents become effectively parentless when their mother goes into prison. Caddle and Crisp (1997a) in their UK study found that in the year 1994, 61% of women in prison had dependent children under 18 years of age, and that three-quarters of these children had mostly lived their lives solely with their mother. Children may also be separated from their siblings if they cannot be cared for by the one carer. The care children experience is often inadequate

and the stress they endure goes unrecognised as the trauma of parental imprisonment is unacknowledged (Reed and Reed 1997; Kingi 2000). Sherman (2005) suggests the impact of parental imprisonment on children is shaped by factors that are unique to their situation, including the gender of the parent, the age at which the separation occurs, the length of incarceration and how disruptive this is for the child, finding that generally this separation is more harmful when the child is young. Children who have frequent contact with their imprisoned parents tend to manage better these disruptions.

The impact of the experiences the children have endured are reflected in the reasons why these children come to the attention of the court. The problems the children experience range across: health concerns, family fragmentation, parental substance abuse, accommodation difficulties and school-based problems (Sheehan and Levine, 2004). They are children who do not receive child health and welfare interventions they need and suffer developmental problems, or are children injured by the parent; children who have cognitive and emotional developmental delay from poor school attendance or many changes of school; children whose peer interactions involve high levels of aggression towards other children (Sheehan and Levine, 2004). The South Australian Government's Report *Children of Prisoners Project* (2005), Murray (2007) and Hannon (2006) all confirm the significant impact that parental imprisonment has on dependent children, particularly when it is the mother who is imprisoned. Their studies, in Australia and the UK, suggest the impacts are not only those noted above but extend to include feelings such as grief and loss, anger, shame and isolation, fear, anxiety and depression, as well as confusion about the parent's behaviour. Hagan (1995) refers to the loss of social capital these children experience, referring to the often loss of family relationships, as well as the strain of economic deprivation, the loss of parental support and supervision, and the stigma and shame of societal labelling.

#### **1.4. The fragmentation of child care**

The fragmented nature of care for children of women prisoners, in particular, who come to the attention of child protection and the Children's Court has significant consequences for children's stability (Sheehan and Levine 2004). The tentative nature of family reunification can lead a child to be reunited with their parent after prison, but if this breaks down the child is returned to care. Children experience difficulty having contact with parents whilst they are in prison, and when they are out, if their parent is transient and does not come to access. The Legal Services for Prisoners with Children (San Francisco, USA) records that in the US, once the child of a prisoner, and most typically they refer to women prisoners, is placed in foster care, there is provision for court ordered services to facilitate reunification of the family for only six to twelve months before long-term out of parent care is court-ordered.

These children often experience considerable changes in their living arrangements when their parents change partners, or when their parents are constantly moving around, sometimes to avoid legal proceedings. Murray (2007) notes these changes can include changing schools and resisting school attendance, to avoid the stigma that surrounds parental imprisonment. This instability may have life-long consequences as this group of children are vulnerable to mental health and relationship problems, and poor education and employment outcomes.

Caregivers for this group of children find there is no response system that is set up to help them and the children in their care (Phillips and Bloom, 1998). Thus, there is no formal monitoring of the quality of care the child receives during their parent's incarceration; there is an invisibility about children with parents who are prisoners and the impact of the justice

process on children of prisoners is not acknowledged (Young and Jefferson Smith, 2000; Phillips and Bloom, 1998; Guransky et al., 1998). Little attention is paid in prison and post-release programmes to how families re-unify successfully.

## **1.5. Imprisonment and social exclusion**

Families of prisoners referred to the social stigma, isolation and ostracism that occurs, as there is little public sympathy for prisoners' families (Young and Jefferson Smith, 2000). The welfare, legal and justice systems do not work together and the families of prisoners do not appear to be the core business of any state or territory government departments in Australia (Woodward, 2003). There are no formal channels of communication for information sharing and collaboration; in particular the child protection and justice systems have different priorities and responsibilities (Seymour, 1998). Negligible attention is paid to the provision of supports and programmes that maintain and improve the attachment between parents who are prisoners and their children (Tudball, 2000; Sherman, 2005; Murray, 2007). Reed and Reed (1997) found that in general in the USA, the child protection systems did not have a specific policy on the placement of children whose parents were to be incarcerated. This is the same in Australia where child protection services do not have protocols with the corrections system regarding the children of primary carers who are entering prison. The lack of guidelines regarding who takes responsibility for the children means the children of prisoners remain invisible, their care disrupted, and their involvement with child protection services highly likely. As already noted, the life disruption for these children may lead to long-term social and emotional difficulties.

## **1.7. Study Aims**

The study aims are three fold. First, to examine the extent to which children who are the subject of child protection proceedings, with parents who have been incarcerated, are currently in prison, or who are awaiting sentencing, feature in child protection matters. Second, to examine the care arrangements for these children, in order to discover what factors impact on their stability of care, most particularly when the parent in prison is the primary caregiver. Third, the study explores the factors that bring the children to the attention of the child welfare and justice systems, and aims to recommend policy responses to the distinct and distinctive circumstances of these children.

## **Chapter Two: The Study Method**

### **2.1. Introduction**

The literature review reveals that children of parents who are in prison, or have been imprisoned, are a uniquely vulnerable group of children whose vulnerability can bring them into contact with child protection services and other welfare agencies. Yet, there is negligible information about these children, their care and their outcomes. This study is therefore exploratory research, examining what is distinctive about the circumstances of the children who are the focus of the study, as the basis for formal policy recommendations to child welfare and justice systems.

The study focuses on children who are the subject of child protection proceedings, with parents who are currently or previously incarcerated, or who are awaiting sentencing. The aims of the study (as noted in Chapter 1.7) are threefold: first, to examine the extent to which such children feature in child protection matters; second, to examine the care arrangements for these children, in order to discover what factors impact on their stability of care, most particularly when the parent is the primary caregiver; and, third, to explore the factors that bring the children to the attention of the child welfare and justice systems.

## **2.2. The Study Context**

The study is undertaken in the Family Division of the Melbourne Children's Court, the Court that hears all child protection matters that arise in metropolitan Melbourne, a city of approximately 3.5 million people. The study sample is drawn from child protection cases brought before the Family Division of this Court during the study period: January to December, 2006. The cases that form the study sample are those that involve children with a parent in prison, a parent who has been in prison or is awaiting sentencing. The sample is representative of the range of child protection cases that come before the Court. All matters commence in the Mention Court, and return there for decisions about further hearings. Cases before the Family Division of the Children's Court involve the range of applications across child protection: new applications for statutory intervention, returns of orders for review and their continuation, and breaches of existing orders.

Magistrates are asked to identify cases for the study sample and record case numbers on the data collection sheet provided. Cases are identified for the sample from matters heard in the Mention Court or from contested matters held during the study period. It is an availability sample, dependent on magistrates identifying cases for the study. Once a case is identified, the court record is located in order to gather information for the study survey.

The court record, for every child protection matter heard in the Children's Court, comprises a magistrate decision sheet and the report for the court prepared by the child protection service, setting out the reasons why statutory intervention has been taken and the child protection order sought from the court. The magistrate decision sheet records the decision made at the

completion of a case; it notes the grounds on which an order is made and any conditions which are attached to the order.

Two data collection sheets were developed for the study: the case record sheet on which magistrates could note the case number for cases for the study sample, and the court record survey sheet. The case record sheet recorded: the child's date of birth; the nature of matter before the Court (for example, Protection Application, Return of Interim Orders, Supervision Order, Custody to the Secretary Order; extension of existing Orders etc.); the disposition sought by child protection service (for example: Interim Protection Order, Supervision Order, Custody to Secretary Order, Guardianship Order); legal representation of parties; parents attendance at court; child's current care arrangements; whether the child is currently on a child protection order; the parent's custody status and the court decision.

The court record survey sheet gathered data about: family composition; household of child; child's care history; child's involvement with statutory services; parental involvement with the criminal justice system; details about the child's health and education; information about any welfare agencies involved with the child and parents; and any other relevant information. Given the sensitivity of this data, no identifying information was recorded on the data analysis sheets. Data gathered was stored in a secure area at the court.

Ethics approval for the project was granted by both Monash University and the Department of Justice, Victoria, Ethics Committees.

### **2.3. Data collection**

Case records sheets were placed in the Mention Court during the study period so that the presiding Magistrate could identify cases involving children whose parent was in prison, had been in prison or was awaiting sentencing. Where cases were thus identified, they were referred to the researchers. The court record was then located from court files to complete the court record survey data collection sheet; the information sought is identified in the previous section. Information recorded on each court record differed according to the number of child protection court reports, court decision sheets and notices to parents, that were contained on each court record. The experience of the pilot study had found that court records were highly variable and individualistic in the information included on the court file and it required a considerable amount of data mining to locate what was needed.

This was also the case for this study. Court records varied in what they contained, and child protection court reports also varied in what information they presented about the child and the reasons why statutory intervention was being sought. Some records were incomplete, some records for cases referred by magistrates could not be located. This meant there was considerable variation in the information available for analysis about each case. The study was greatly dependent on what was noted on decision sheets and on what the child protection workers included in their reports. The study was also dependent on magistrates identifying cases for the study.

## **2.4. Data analysis**

Data gathered is both quantitative and qualitative. The quantitative data is primarily drawn from the case record sheets completed by Magistrates, including key demographic information about children, their parents and the child protection and legal processes. Quantitative data was analysed using Microsoft Excel. The qualitative data is drawn from the court record data collection sheet, completed by the researchers, drawing from information noted on the court record for each case. Qualitative analysis is undertaken using content analysis, canvassing key themes that are salient to the study aims.

## **2.5. Limitations to the implementation of the study**

Gathering cases for the study sample was problematic. Magistrates at the Melbourne Children's Court were committed to assisting the study, but changes in Magistrate assignment, country duty, the pressure of work in Mention Court, got in the way of Magistrates being able to track all cases coming into the court which could be referred to the study. Magistrates completed the data collection sheet as much, and as best, as they could. Cases were overlooked however, not only for the reasons just mentioned but also because it was not always clear when parental incarceration featured; it was highly dependent on being mentioned by the legal practitioners appearing in individual cases. The Mention Court is a busy court, and it is what is most urgent about a matter that is the focus of decision-making. Thus data collection by Magistrates fell to substantially rely on the Magistrate principal investigator gathering data for all cases he heard in Mention Court and cases he was aware were contested hearings. The study came more to rely on an availability sample than a

representative sample. However, it is argued that the cases are representative, both of the range of matters that are brought before the court (Sheehan and Levine, 1998) and of the cohort of cases that involve parental incarceration.

Data collection was also problematic in terms of availability of data. There is a court file developed for each case that comes before the Children's Court. The file comprises the magistrate's decision sheet, the child protection service application report, and copies of court correspondence to parties, for example: letters to parents who do not come to court for hearings, copies of warrants, bail justice notices etc. Court records thus vary in the amount of information they provide. The child protection service reports also vary in terms of the information provided about a child's circumstances. Application reports at times provide scant information about parental criminal history. Records at times go missing, given the number of times they might have to be circulated at court. There is no template that provides clear information; what details are provided is dependent on the quality of the child protection report. Thus the data gathered for the study varied in terms of the amount of information that could be gathered about each case. This is referred to in Chapter 3 when the findings of the study are presented, and again in Chapter 4 when limitations of the study are discussed.

On balance however, the study has been able to gather important data about the cohort of children who are before the Children's Court on child protection matters, who have a parent in prison, has previously been in prison or who is awaiting sentencing.

## **Chapter Three: The Study Findings**

The study focuses on children who are the subject of child protection proceedings, with parents who have been incarcerated, are currently in prison, or who are awaiting sentencing. The aims of this exploratory study are threefold. First, to examine the extent to which such children feature in child protection matters. Second, to examine the care arrangements for these children, in order to discover what factors impact on their stability of care, most particularly when the parent is the primary caregiver. Third, the study explores the factors that bring the children to the attention of the child welfare and justice systems, and aims to recommend formal responses to the distinct and distinctive circumstances of these children.

There were 91 cases referred to the study by magistrates during the data collection period, June to December, 2006. As already noted this may not reflect every case before the Children's Court that concerned a child with a parent in prison, awaiting sentence, or previously in prison. The reasons why it was difficult to gather every case that met the study parameters are outlined in Chapter 2.3. However the cases examined are representative of cases that typically present to the court. No statistics are available about all the child protection matters presented to the court during the study period, to assist comparison with the number of matters included in this study. However, in the period July 2004 to June 2005, there were 1,243 new child protection applications finalised in the Melbourne Children's Court, although this does not include the return of previous orders, breach applications, or extension of orders (Children's Court of Victoria, *Annual Report*, 2004-05:21).

### 3.1. The children

There were 156 children from the 91 cases included in the study. These children made up the 91 families whose parent or parents were before the Court on child protection matters who met the criteria for inclusion in the study. The mean age of the children was 6.19 years old (see Table 3.1); the mean age was based on the age of the children as of January first, 2007. There were sibling groups in 38 of the 91 families; the average number of siblings per family is 2.4.

The greater number of protection applications involved children aged between birth and five years (N = 70; 53.8%). They were followed by children aged between 6 and 10 years (N = 31; 19.9%) then children aged between eleven and fourteen years (N = 29; 18.6%). Of the 156 children in the study, eight were less than twelve months of age, and four of the children newborn or very young infants. Whilst it is noted that the most numerous group of children before the court were aged between birth to five years, there was also a significant number of children aged ten years and over presented to the court in need of protective intervention. Table 3.1 sets out the ages of the children brought before the court on protection matters during this study.

**Table 3.1: Age of child in child protection matter before the Court**

Age of child	No of children recorded
0 <= 1 year	8 (14.1%)
2-5 years old	62 (39.7%)
6-10 years old	31 (19.9%)
11-14 years old	29 (18.6%)
15 years +	12 (7.7%)
Total	156

### 3.2. Indigenous Australians

The 156 children from the 91 families in the study included 21 children (11%) who were identified as Indigenous Australians, and the children were relatively evenly divided based on gender: 52% of this group were male and 48% were female children.

**Table 3.2: Children identified as Aboriginal or Torres Strait Islander**

Age of child	No of children identified as Indigenous Australians.
0 <= 1 year	5
2-5 years old	10
6-10 years old	2
11-14 years old	4
15 years +	0
Total	21

### 3.3. Gender

As with the children of indigenous Australian identity, the gender of the 156 children in the study was fairly evenly divided between male (48.7%) and female (49.4%), although 1.9% of the records did not indicate the gender of the child. A comparison of age and gender (see Table 3.3) shows a slightly higher concentration of female children in the two to five years age category.

**Table 3.3: Gender of child in child protection matter before the Court**

<b>Age of child</b>	<b>Male</b>	<b>Female</b>	<b>Not Recorded</b>	<b>Total</b>
0 <= 1 year	13 (17.1%)	9 (11.7%)	0	22
2-5 years old	27 (35.5%)	34 (44.2%)	1 (33.3%)	62
6-10 years old	17 (22.4%)	12 (15.6%)	2(66.7%)	31
11-14 years old	14 (18.4%)	15 (19.5%)	0	29
15 years +	5 (6.6%)	7 (9.1%)	0	12
<b>Total</b>	<b>76</b>	<b>77</b>	<b>3</b>	<b>156</b>

### **3.4. Children and their parents**

The study set out to examine the intersection between the child protection and criminal justice systems and the extent to which children before the Children’s Court on child protection matters had a parent currently in prison, awaiting sentence, or who previously been in prison. Court records were examined to gather data about mothers and fathers in prison, the reasons they were incarcerated and the time they had been in prison. However the court records offered scant information; they typically simply stated whether or not a parent was in prison. It was not possible to understand in more detail what association there might be, between the nature and extent of parental imprisonment (see Table 3.4) and its impact on their children. Such impact can only be inferred from data gathered about children, the child protection concerns about them, and the education and health problems the children

presented. The lack of information gathered about parents for court records reflects that the primary concern of the court and the child protection service is responding to immediate care and protection needs of the child. Whilst parental circumstances are also significant, the reasons why parents were incarcerated were rarely discussed in any detail. What information was included on the file depended on what the author of the child protection application report believed the court needed to know in making a decision about a child protection order.

Of the 156 children in this study, 89 children had a parent in prison. Nineteen children (12.1%) had both parents in prison; these children comprised ten of the 91 family groups in the study. Of these ten families, two families - each with five children - had both parents in prison. There were 47 (30.1%) children with their father only in prison, with 23 (14.7 %) of the children with their mother only in prison. Whilst a comparatively low number of fathers are recorded as not having been imprisoned previously, this is not borne out anecdotally and suggests that the child protection court reports concentrate on recording what information is immediate to the case in hand, and what the court needs to know about the child's current circumstances. The greater concentration on the mother's status perhaps reflects the extent to which children who presented to the Children's Court as in need of protection come predominantly from single parent families, with children most typically in their care of their mother (Sheehan, 2001).

**Table 3.4: Children with parents in prison (No. of children = 156)**

<b>Parent in prison</b>	<b>No. &amp; % of children</b>
Children with both parents in prison	19 (12.1%)
Children with only father in prison	47 (30.1%)
Children with only mother in prison	23 (14.7%)
Children with a father currently in prison and previously in prison	15 (9.6%)
Children with a mother currently in prison and previously in prison	17 (10.9%)
Children with neither parent currently in prison	51 (32.7%)

### **3.5. Reasons for parental incarceration**

As noted above negligible detail regarding the reason for imprisonment was provided on the court records. However, where it is recorded it is often very directly connected to child protection concerns, for example the circumstances surrounding the parent/s' arrest, and what was recorded is set out in Table 3.5 below:

**Table 3.5: Reasons for parental incarceration**

Type of crime	Current conviction: father (No. of fathers = 102)	Previous conviction: father (No. of fathers = 102)	Current conviction : mother (No. of mothers=93)	Previous conviction: mother (No. of mothers=93)
Armed Robbery	2	4	2	1
Theft	1	2	1	2
Burglary	2	0	0	0
Drugs	5	1	2	6
Murder	3	0	1	0
Violence	4	5	1	1
Parole Breach	1	0	0	0
Sex offences	2	1	0	0
Child abuse	0	0	1	0
Arson	0	0	1	0
Not recorded	27	25	21	12
<b>Total</b>	<b>47</b>	<b>38</b>	<b>29</b>	<b>22</b>

### **3.6. Living arrangements of children whose parents are in prison**

One of the three key aims of the study was to examine the care arrangements for children whose parents are in prison, in order to discover what factors impact on their stability of care, most particularly when the parent is the primary caregiver. The study gathered data from court records about the care arrangements for these children and Table 3.6 sets out the

children' living arrangements. Where a child's father was in prison but their mother was not, still a high number of children, 46 (76%) did not live with their mother.

**Table 3.6: Living arrangements of children whose parents are in prison**

Age category	Mother	Grandparents	Other family	Foster care
0-1	0	2	0	1
2-5	3	11	5	2
6-10	3	2	1	5
11-14	4	0	1	3
15+	1	0	2	0
<b>Total</b>	<b>11</b>	<b>15</b>	<b>9</b>	<b>10</b>

The qualitative data gathered from the Court records presents a picture of living circumstances for many of these children as ones of considerable chaos, neglect and transience:

Child and sibling live with the maternal grandfather and his wife, with two older siblings. Father in prison and mother's whereabouts are unknown. Children were often left with friends. Mother was evicted from public housing (Case 56b: child 3 years old).

Child lives with maternal grandmother. The mother very transient, she previously lived with maternal grandmother. Mother currently homeless (Case 57: child 4 years old).

Child placed on Children's Court Interim Accommodation Order since five days after birth, to live with maternal grandmother. Then placed with mother

living in a motel. Then placed back with maternal grandmother, then placed with paternal grandmother, then placed with mother in emergency housing, now living in a motel (Case 63: child 2 years old).

Child has lived with various family members. Now lives with her teacher's mother as foster parent. Has lived with father for short time when mother in prison but he needed drug and alcohol treatment. She was removed from father's care when living with him in Caravan Park (Case 50: child 13 years old).

Child had no speech when first in foster care, now meeting milestones. Child had head lice, respiratory infection, nappy rash, ear infection, gastroenteritis whilst in mother's care (Case 18a: child 3 years old).

Child is deaf, attends special kindergarten, has sibling twins, born at 26 weeks. At six months they had nappy rash from neglect, were malnourished, had chest infection, multiple hospital admissions, late toilet training (Case 23a: child 8 years old).

The qualitative data gathered from the Court records also records the extent to which substance abuse pervades the lives of the children in the study, and intersects with family violence and parental involvement in the criminal justice system:

Child's parents are heavy drug users, consistently fail to attend court. Parents have a chaotic lifestyle. The father is very angry, the mother has intermittent contact with child, the mother has major mental illness (Case 65: child 3 years old).

Mother has alcohol damage, she refuses to allow child to be immunised. Child's two older siblings (5 and 15 years of age) live with their father (Family Court Orders). The maternal grandmother presents as hostile, with little insight; she has had no contact with her daughter prior to daughter's imprisonment (Case 58a: child 4 years old).

Children's mother and father deceased. Children known to child protection for over ten years. They lived with maternal grandmother when their mother died, children removed because of grandmother's drug abuse. Children placed in a residential unit as permanent care placement broke down. Several attempts at reunification with mother, and later with maternal grandmother. Children now live with aunt, receiving support from psychiatric and family services (Case 39a: children 11, 12 13 years old).

Domestic violence between parents. Father assaulted paternal grandfather, he has brain damage. Police observed mother assaulting child's sibling; they found evidence of significant physical abuse of child. Parents regularly intoxicated (Case 58a: child 6 years old).

Father has major psychiatric disorder and drug and alcohol problems. Father is violent towards mother and other people (however not to children). Father taken into custody by police after siege; has poorly managed psychiatric problems. Mother gives father access to children, although access not permitted. Parents both hostile towards child protection service. Mother allows her new partner to hit child and other forms of abuse (Case 70b: child 10 years old).

### **3.7. Maternal imprisonment**

Given the lack of consistency in recording details about parental imprisonment on court records, it was hoped a focus on maternal imprisonment could yield greater detail, given the apparent great attention by child protection to this in the reports they prepared. Table 3.4 indicates that fewer children had only their mother in prison (N=23) than only their father (N=47), out of the total number of children in the study (N=156). The criminal convictions for the mothers of the children in the study included: theft, drug related offences, murder (in

one case) and armed robbery. However, the majority of court records did not record the criminal conviction and it was rare to find the length of prison sentence noted.

The data in this table shows that children aged in the 6-10 year age group predominated in terms of both having their mother currently, and previously, in prison. It is an unexpected finding, given that this age group of children (N=31) comprises just under 20% of the total number of children (N=156) in the study. However, given that there has generally been a longer lead time before women's offending incurs a custodial sentence, it may be that this cohort of mothers has been offending since their children were very young and the number and seriousness of offences have so accumulated that they are now incarcerated. Table 3.7 sets out the ages of the children whose mother is incarcerated or has previously been incarcerated. Data could only be obtained for 98 of the 156 children in the study as the court record for 58 of the children did not record the current or previous prison status of the mother; these records noted the mother had a prison record but did not note whether this was current or past.

**Table 3.7: The age of children whose mother in prison or previously imprisoned.**

Prison status of child mother	Age of children					
	0-1yr.	2-5yrs.	6-10yrs.	11-14yrs.	15+yrs.	Total
No. of children with mother currently in prison and who has already been in prison	0	5	11	0	1	17 (10.9%)
No. of children with mother currently in prison who has not been in prison previously	0	1	1	1	1	3 (1.9%)
No. of children with mother <b>not</b> currently in prison but who has been in prison	1	6	2	2	2	13 (8.3%)
No. of children with mother who has never been in prison.	4	24	22	10	5	65 (41.6%)
<b>Total</b>						<b>98 (62.8%)</b>

### **3.8. Child protection concerns**

The third key aim of the study is to explore the factors that bring the children to the attention of the child welfare and justice systems, hoping that by so doing, recommendations can be made about responding to the distinct and distinctive circumstances of these children.

The reason why the child protection service seeks a child protection order reflects the range of concerns about the care of these children and the harm they experience. The child protection application lists one or more grounds for the application, in line with the requirements of the *Children and Young Persons Act, 1989* (Victoria). The new *Children, Youth and Families Act 2005* came into effect April, 2007, although some provisions have been held over until October, 2007. Data gathered for this study was gathered from court records within the parameters of the *Children and Young Persons Act, 1989*, the legislation current at the time of the study.

The *Children and Young Persons Act 1989* (Victoria), Section 63, set out the grounds for a child protection application: (a) the child has been abandoned and (i) the parents cannot be found, or (ii) there is no other suitable person to care for the child; (b) the child's parents are dead or incapacitated and there is no other suitable person to care for the child; (c) the child has suffered, or is likely to suffer, significant harm as a result of physical injury; (d) the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse; (e) the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged; (f) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided basic care or effective medical, surgical or other remedial care. Each of the grounds includes the statement that the parents have failed to protect the child from the particular harm (Sheehan, 2006).

Child protection matters are predominantly before the court for reasons of physical abuse to a child: risk of (or actual) physical harm to a child, concerns about a child's physical development or a parent's incapacity to provide care for the child. Many of these applications included

emotional abuse, or risk of emotional harm, within the grounds of the application. Cases presented to the court quite often included two, and sometimes more grounds, representative of the multi-factorial causation of child abuse.

**Table 3.8: The grounds of the protection applications (CYPA 1989, S.63) on behalf of the children in the study (N=156).**

<b>Grounds of Protection Application</b>	<b>No. (N=156)</b>
Parents absent (s.63a)	0
Parent incapacitated (s.63b)	0
Physical abuse (s.63c)	4
Sexual abuse (s.63d)	0
Emotional abuse (s.63e)	3
Threat to child development (s.63f)	1
Parents absent & developmental harm (s 63 a & f )	2
Parents incapacitated and emotional (s.63 b & e )	5
Parents incapacitated and developmental harm (s. 63b & f)	0
Physical abuse and emotional (s. 63 c & e)	31
Physical and developmental harm (s.63 c & f)	3
Sexual and emotional (s.63 d & e)	2
Sexual and developmental s. 63 d & f)	0
Emotional and developmental harm (s.63 e & f)	0
Parents absent, physical and emotional ( s. 63 a, c e)	2
Parents incapacitated, physical and emotional (s. 63 b,c,e)	8
Parents incapacitated, physical and developmental harm (s.63 b,c,f)	0
Physical, sexual and emotional ( s.63 c,d,e)	2
Physical, emotional and developmental harm (s.63 c.e.f)	4
Current Order extension	10
Breach of Order	16
Not recorded	42

Court records did not always list the original grounds of the child protection application when the application was to extend an existing child protection order. Where it was possible to discern the original grounds, or the matter was a new application, it was clear that the grounds of physical harm and emotional abuse predominated (see Table 3.8.1). This was especially evident for children aged between 2-5 years (see Table 3.8.2).

**Table 3.8.2: Age of child compared with the grounds of the protection application**

<b>Grounds of PA</b>	<b>&gt;= 1 year</b>	<b>2 – 5 years</b>	<b>6-10 years</b>	<b>11-14 years</b>	<b>15+ years</b>	<b>Total</b>
Parent absent (s. 63 a)	3	2	0	1	0	6
Parent incapable (s.63b)	0	3	8	2	1	14
Physical harm (s.6.3 c)	15	29	13	14	2	73
Sexual abuse (s 63d)	0	0	2	1	1	4
Psychological harm (s. 63e)	13	30	17	14	3	77
Harm to child development (s.63f)	3	5	1	1	0	10
Current Order Extension	1	3	5	1	2	12
Breach of current child protection order	2	8	3	4	2	19
<b>No. of children per age group</b>	<b>8</b>	<b>62</b>	<b>31</b>	<b>29</b>	<b>12</b>	<b>156</b>

Problems with family violence, drug and alcohol abuse, with physical and emotional abuse and neglect of children, and parental mental health and with transience, were most commonly the basis of the child protection matters across all age groups. Problems with substance abuse were particularly pronounced across all ages of the children, although in children under five years of age this, combined with family violence, mental health and transience, predominated. There is a

high incidence of neglect, and this coupled with family violence and transience signals major concerns about stability of care and capacity for normal child development. The comparison of the gender and age of the children in the study with the child protection grounds provides a more comprehensive account of the circumstances these children live in and the wide ranging issues they face. Table 3.8 3 compares the grounds of the child protection application with the age and gender of the child.

Qualitative data gathered from the court record survey illustrates the issues noted above:

The mother fails to provide urine screens. When the child lived with the father, was at school two days a week. Father is heavy heroin user. Child does not know mother in prison, thinks she is in hospital. Child lives with paternal grandparents. Child used to be locked in the house when the father went out. Child accompanied parents when they were engaging in criminal activity (Case 22: child 9 years old).

Parents very aggressive to staff at residential unit. Children exposed to inappropriate sexual material; children encouraged by uncle to engage in criminal activity. Significant substance abuse by parents. While children in grandparents' care, grandfather used to hit children, there was no routine and little food (Case 76a & 76b: children 9 and 10 years old).

The comparison of the gender and age of the children in the study with the grounds of the child protection application provides a more comprehensive account of the circumstances these children live in and the wide ranging issues they face. Table 3.8 3 compares the grounds of the child protection application with the age and gender of the child.

**Table 3.8.3: Age and gender of the child compared with the grounds of the child protection matter.**

	Male	Female	<=1 year	2-5 years	6-10 years	11-14 years	15 + years
Family violence	18	20	2	23	15	5	4
Drug and Alcohol Abuse	43	45	6	26	23	20	4
Emotional abuse	20	25	3	16	15	11	2
Physical abuse	18	10	1	8	9	7	3
Mental Health: Mother	8	14	2	14	3	3	2
Mental Health: Father	7	6	1	2	4	1	0
Intellectual disability: Parents	6	6	1	4	3	1	1
Transience	21	20	3	15	9	7	4
Neglect	23	21	3	21	11	6	1
Sexual abuse	1	6	0	1	1	3	2
Mother prostitute	3	3	0	2	2	2	1
Child: runaway	2	0	0	0	0	0	2
Parents threatening workers or others	11	8	1	2	4	5	4
Poor parenting skills	8	10	2	9	5	2	0
Child exposed to criminal activities	0	4	0	2	2	0	0
No father or limited contact	14	12	1	7	7	6	3
No mother or limited contact	15	11	2	8	7	6	0
Parent attempted rehabilitation	2	0	0	0	2	0	0
Child left in care of others	4	7	0	3	4	2	2

Parent-child problems	2	0	0	0	0	0	2
Child parentified	1	4	0	0	1	3	1
Chaotic lifestyle	6	3	0	0	3	5	1
Child:development concerns	0	2	0	1	1	0	0
Child: illness	7	5	2	7	1	2	0
Exposure to inappropriate people	2	9	1	2	5	2	1
Truancy	4	4	0	0	3	3	2
Mother dead	2	2	0	1	2	1	0
Father dead	0	1	0	1	0	0	0
Both parents dead	0	1	0	0	0	1	0
Child born substance affected	3	4	3	3	1	0	0
Child disabled	2	2	0	1	1	0	2
Child self-harming	0	2	0	2	0	0	0

An analysis of the data found that children in the age category of 2-5 years predominated in terms of the harm they experienced and the parental problems to which they were exposed. In particular, neglect and emotional abuse were more significant in this age category than in the other age groups recorded. This very likely reflects the dependence of young children on their parents to meet their needs for care and development. The qualitative data recorded on the court record survey highlights the severity of child abuse experienced by the younger children in this study. Examples of child neglect, gathered from court records for children aged less than two years included:

Mother forgets to feed baby. No antenatal care during pregnancy (Case 40: child 12 months of age).

Child admitted to hospital with chest infection. Found mother to be over-feeding baby formula so she did not have to attend to him. Child very dirty, nappy rash, skin problems and poor physical condition. Child born eight weeks premature (Case 49b: child 12 months of age).

Child was severely neglected when living with parents. Stable now in foster care. (Case 90: child 12 months of age).

The court records surveyed revealed that the child protection concerns for children aged between two and five years of age were based not only on the impact of child neglect and psychological harm but also of family violence, illness and poor parenting skills. The harm the children in this age group experienced was severe and wide ranging:

Child not fed, environmental neglect... child with rashes, irritated, saturated nappies. Child in back of car, two women found injecting heroin (Case 11: child 2 years old).

When child taken into care at twelve months, had umbilical

hernia, nappy rash, does not respond to noise, coca -cola in bottle, will only eat processed food. Born substance affected. Shows signs of anxiety: floor pacing and trouble sleeping and is indiscriminate in affection for strangers (Case 64: child 2 years old).

Child born substance affected, Given valium by mother to settle. Child cries for hours on end. Child has scratches and bruises (Case 27: child 2 years old).

Child not fed, clothed, cleaned properly. Nappy not changed for two days. Child sleeping under mattress because cold. Maternal grandfather said child came to him cold, hungry, sick with nappy rash (Case 46: child 2 years old).

Child witnesses father's murder by mother. Child shows symptoms of severe trauma. Sleeps with eyes opens, runs up and down hallway screaming. Self harm: sticks things in eyes, ears and nose until they bleed. Sits in corner for hours not speaking. Licks power points, binge eats until vomits. Very poor social skills and poor speech. Plays with dolls and breaks their arms. Paediatrician describes behaviour as primitive. Severe Attachment disorder and indiscriminate attachment (Case 52: child 4 years old).

Child self harming, pushes paper up vagina, shows post traumatic stress disorder symptoms. Stops self from crying and seeking assistance. Does not play with other children. Requires major dental and eye surgery due to neglect of teeth and eye condition. Fourteen teeth need to be removed. Has difficulty eating (Case 42: child 5 years old).

Concerns about children's disruptive and aggressive behaviour increased as they became school aged (six to ten years of age) along with health concerns, for example, with teeth and ear problems as a result of chronic neglect:

Very aggressive, hearing loss, needs grommets (ear surgery) (Case 32a: child 6 years old).

Aggressive at school. Kicks and punches other children underwater at swimming lessons (Case 35: child 6 years old).

Poor academic performance, head lice, teeth problems, withdrawn and unhappy, lots of problems socialising with others (Case 34b: child 6 years old).

Child is hyper-vigilant and aggressive. Keeps shoes and clothes on at all times. Sleeps fully clothed on couch by choice. Requires medical treatment from ear, nose and throat surgeon; has play therapy. Shows signs of trauma (Case 58a: child 6 years old).

Grommets (ear surgery), child considered slow. Poor social skills at child care, aggressive, short attention span (Case 30: child 7 years old).

Child on medication for ADHD, born substance affected, self harms: scratches face. Aggressive after access visits to parents. Hits and kicks carers after access visits. Aggressive at school (Case 61: child 7 years old).

Child displays sexualised behaviours towards sisters. Weekday access with father impacts on child's schooling. Aggressive towards peers at school (Case 47b: child 8 years old).

As the children move into their early teens, school absence was commonly reported as a child protection concern:

Child missed 82 days of school in 2005 but very bright and loves school.  
Mother does not provide food for child at school or glasses that are needed.  
No school uniform and socially isolated (Case 27: child twelve old).

Lots of absences and changes due to transient family set up (Case: 41a: child twelve years of age).

Child is guarded in interactions with adults. Significant learning difficulties: comprehension and oral cognition. Conscientious and is making progress according to school. Shows parentified behaviour with younger siblings. Seeks approval from people of authority and takes criticism poorly. Plays roughly with peers in school yard. Emotionally unstable. Displays strong attachment to parents (Case 59e: child 12 years old).

Older children in the study were starting to engage in criminal behaviour and were placed in residential care rather than in foster care because of their aggressive and difficult behaviour.

Two girls in this category reported they had been sexually abused:

Child has low educational attainment. Criminal charges laid after assaulting taxi driver with knife (Case 48a: child 17 years old).

Child self harming, disturbed behaviour (Case 14a: child 14 years old).

Mother and child have very conflictual relationship...Child stole car and arrested (Case 77: child 14 years old).

Mother physically and sexually abuses child. When in the care of mother, child left with lots of people: (Case 85, child 15 years old).

The study also sought to identify the factors that brought children to the attention of the child welfare system, to see what connection, if any, this might have to their parents' offending behaviour. The court records were examined to see if it was possible to identify the age at

which the children in the study first came to the attention of the child protection service. However, it was difficult to capture this information as the number of notifications of the child to the child protection service was often not recorded. Yet it was generally possible to discern the age of the child at the first child protection notification. The table below shows that the highest number of notifications and subsequent child protection applications occurred for children aged between two to five years. Several court records noted previous notifications prior to the date listed. One such record noted that a child on a first child protection application at three years of age had been the subject of 26 previous child protection notifications.

It was also interesting to note the extent to which children in the study, referred to the child protection service, already had siblings the subject of Court Orders placing them in the care system.

The court records provided some data about the age of the child when the first notification of care and protection concern was made to the child protection service (see Table 3.8.4). Similarly data was usually available about the age of the child when the first child protection application was brought before the Court (see Table 3.8.5). Care and protection concerns led to notifications about one-third of the children in the study (N=51) (see Table 3.8.4) between birth and two years of age; they were children who were clearly at risk from their infancy. These concerns were clearly deemed to place the child at significant risk of harm, given that 48 of these children were subject to their first Protection Application before the Court between birth and two years of age (see Table 3.8.5).

**Table 3.8.4: Age of child at the notification of care and protection concern to the child protection service (N= 156).**

<b>Age of child</b>	<b>No. of children: first notification</b>
Birth	20 (12.8%)
1 month	9 (5.7%)
2-6 months	8 (5.1%)
7-12 months	2 (1.2%)
1-2 years	12 (7.6%)
3-5 years	15 (9.6%)
6-10 years	5 (3.2%)
10 + years	2 (1.2%)
Not recorded	78 (50%)

**Table 3.8.5: Age of the child at first Protection Application brought before the Court (N=156).**

<b>Age of child</b>	<b>No. of children: first protection application</b>
Birth	6 (3.8%)
1 month	4 (2.6%)
2-6 months	18 (11.5%)
7-12 months	7 (4.4%)
1-2 years	13 (8.3%)
3-5 years	13
6-10 years	10
10 + years	10
Not recorded	75

### **3.9. The nature of child protection intervention**

Cases before the Court in this study are there because of care and protection concerns about children. However cases may be presented to the Court at different stages in the "life" of the case. The majority of cases are child protection applications - the initial protective intervention. Other matters before the Court may include the return of cases to Court in which child protection concerns had existed but appeared resolved, or cases where interim orders were not successful and child protection orders were needed to provide for ongoing child protection intervention. The range of orders the Court can make reflects the intensity and duration of child protection concerns. An Interim Accommodation Order is a three week order, which can be extended, that registers there are child protection concerns which need exploration and sets conditions about the residence and care of a child. An Interim Protection Order is made for three months when the child protection service has established there are significant care and protection concerns about a child, and the Court directs the child protection service to test the appropriateness of a particular course of action before it makes final orders. A Supervision Order places the child in the day to day care of one or both of the child's parents, and requires the child protection service to supervise the care of the child. A Custody to the Secretary Order gives the child protection service the authority to say where the child will live and imposes conditions on parents which are intended to resolve child protection concerns and allow the child to return to their care. A Guardianship to Secretary Order gives both custody and guardianship of the child solely to child protection. A Permanent Care Order is made when the child's parent has not had care of the child for a period of at least two years and the Court believes the parent is unable or unwilling to resume

custody and guardianship of the child, or it would not be in the best interests of the child for the parent to resume custody and guardianship of the child.

The table below (Table 3.9.1) shows that 43 children were indeed at the beginning of the child protection trajectory, eight children had no order yet made, and 37 are on Interim Accommodation Orders - which may place them out of their parent's care while assessments are being undertaken, and their care by extended family or foster care is still in the early stages. That 28 children aged two years and under are in this category, suggests the beginning of child protection intervention at a very young age. The high number of children subject to Custody to the Secretary Orders (33.3%), where children live away from their parents with the statutory child protection service having day to day care of the children, suggests children with a parent in prison, previously in prison, or awaiting sentencing, experience considerable disruption in the continuity and stability of their care. The making of a Custody to the Secretary Order comes only after the Court is satisfied that exhaustive attempts have been made to maintain a child in their parent's care, and the parent can demonstrate neither motivation nor capacity to care for the child. Or, there are pressing circumstances which mean a child is unable to live with their parent.

**Table 3.9.1: Current Child Protection Order (N = 156)**

Type of Order	Number and %
Interim Accommodation Order	37 (23.7%)
Interim Protection Order	6 (3.8%)
Supervision Order	23 (14.7%)
Custody to Secretary Order	52 (33.3%)
Guardianship Order	14 (9%)
Permanent Care Order	8 (5.1%)
Breach of existing	0
Extension of Court Order	0
Not recorded	16 (10.3%)

The high number of children already on Custody to the Secretary Orders (25 children aged five years and under) confirms that this cohort of children were already experiencing a high level of child protection intervention as well as family fragmentation.

**Table 3.9.2: Age of child and current Child Protection Order**

Type of Order	Age of Children and % (N = 156)				
	<=1yr.	2-5yrs.	6-10yrs.	11-14yrs.	15+yrs.
Interim Accommodation Order	12 (54.5%)	16 (25.8%)	3 (9.7%)	5 (17.2%)	1(8.3%)
Interim Protection Order	0	4 (6.5%)	2 (6.5%)	0	0
Supervision Order	3 (13.6%)	8 (12.9%)	3 (9.7%)	7 (24.1%)	2 (16.7%)
Custody to Secretary Order	2 (9.1%)	23 (37.1%)	11 (35.5%)	9 (31%)	7 (58.3%)
Guardianship Order	2 (9.1%)	5 (8.1%)	4 (12.9%)	3 (10.3%)	0
Not Recorded	2 (9.1%)	4 (6.5%)	3 (9.7%)	5 (17.5%)	2 (16.7%)

### 3.9.3. The child protection order requested by the child protection service

The children in the study were brought to the attention of the Court for a variety of reasons as already noted. The child protection service might be bringing the case back for review, as legislatively required, or there may be new facts and circumstances that mean the child protection service is seeking to breach the order the child is on currently, or have another order made - perhaps with a stronger intervention basis. It is interesting to note the request for a Custody to the Secretary Order for a further eleven children aged five years and under. Cases in which an extension of an existing child protection order was sought were a significant group of cases before the court. Table 3.9.3 shows what was the court order requested by the child protection service.

**Table 3.9.3: The child protection order requested by the child protection service**

Type of Order	Number and %
Interim Accommodation Order	3 (1.9%)
Interim Protection Order	3 (1.9%)
Supervision Order	13 (8.3%)
Custody to Secretary Order	25 (16%)
Guardianship Order	13 (8.3%)
Permanent Care Order	3 (1.9%)
Breach of Order	13 (8.3%)
Order extension	53 (34%)
Not recorded	30 (19.2%)

Table 3.9.4 compares the child protection order sought with the child's age. Extensions of current orders again predominate in the two to five year age group, suggesting such children

have been in the child protection system since they were very young, as such orders are typically made only after interim orders are made to provide for assessments and attempts at re-unification with parents, if possible.

**Table 3.9.4: Current age of child compared with court order requested by child protection service (N=156).**

Type of Order	Age of children and % (N = 156)					Total
	<=1	2-5	6-10	11-14	15+	
Interim Accommodation Order	2 (1.2%)	1 (0.6%)	0	0	0	3
Interim Protection Order	1 (0.6%)	1 (0.6%)	1 (0.6%)	0	0	3
Supervision Order	5(3.2%)	5 (3.2%)	1 (0.6%)	2 (1.2%)	0	13
Custody to Secretary Order	5(3.2%)	11 (7%)	3(1.9%)	4(2.5%)	2 (1.2%)	25
Guardianship Order	0	9 (5.7%)	4(2.5%)	0	0	13
Permanent Care Order	0	1 (0.6%)	1 (0.6%)	1 (0.6%)	0	3
Breach of order	3 (1.9%)	4 (2.5%)	1 (0.6%)	5(3.2%)	0	13
Extension of Current Order	2 (1.2%)	21(13.4%)	12 (7.6%)	10 (6.41%)	8 (5.1%)	53
Not recorded	4 (2.5%)	9(5.7%)	8 (5.1%)	7 (4.5%)	2 (1.2%)	30

The outcomes of these applications to the Court are recorded below in Table 3.9.5. Again, the Custody to the Secretary Order features strongly for children aged five years and under. Overall 42 children were placed on this order, almost one-third of the children in the study. As noted above they are children out of their parents' care, and half of these children have commenced care away from their parents at a very young age.

**Table 3.9.5: Age of child compared with the Order made by the Court (N = 156).**

Type of Order	Age of Children and % (N = 156)					Total
	>= 1 yr	2-5yrs.	6-10yrs	11-14yrs	15+yrs	
Interim Accommodation Order	7 (4.5%)	5 (3.2%)	1 (0.6%)	2 (1.2%)	0	<b>15</b>
Interim Protection Order	0	0	2 (1.2%)	3(1.9%)	1 (0.6%)	<b>6</b>
Supervision Order	4 (2.5%)	6 (3.8%)	2 (1.2%)	8 (5.1%)	1 (0.6%)	<b>21</b>
Custody to Secretary Order	2 (1.2%)	23(14.7%)	6 (3.8%)	5 (3.2%)	6 (3.8%)	<b>42</b>
Guardianship Order	1 (0.6%)	1 (0.6%)	4 (2.5%)	3(1.9%)	1 (0.6%)	<b>10</b>
Permanent Care Order	0	0	0	1 (0.6%)	0	<b>1</b>
Child protection application withdrawn	0	0	0	1 (0.6%)	0	<b>1</b>
Adjourned	1 (0.6%)	6 (3.8%)	3(1.9%)	2 (1.2%)	2 (1.2%)	<b>14</b>
Not recorded	7 (4.5%)	20 (12.8%)	11(7%)	4 (2.5%)	1 (0.6%)	<b>43</b>
Other	0	0	1 (0.6%)	1 (0.6%)	1 (0.6%)	<b>3</b>

### 3.10. Family Composition

There were 118 children of the 156 children in the study who had both parents listed in the Children’s Court case record as their immediate family. Of the remaining 38 children, 22 children from 18 families did not have their father listed on the court record as their immediate family. Of the remaining 16 children, 7 children from 3 families listed the father but not the mother as immediate family on the court record. In these three cases the mother was alive but lived elsewhere, in two cases her whereabouts were unknown. A further 7 children from 4 families had neither parent identified as immediate family, nor indeed appeared in notes about family composition. Of these 4 families, one set of parents was

deceased, one set was in prison and had very limited contact with their children, one set was not in prison but had such limited contact with their children that they were not listed as immediate family and the fourth set was listed as the father's whereabouts unknown and the mother had negligible contact with the children. Two court records did not list any immediate family for the child.

Data gathered about family composition included information not only about parents, but also about siblings (including step and half - siblings), extended family (grandparents, aunts and uncles) and other significant relationships (step-parents, parents' partners, family friends and foster carers). It is significant to note the extent to which grandparents have assumed the care of grandchildren when the parents are absent. Table 3.10.1 shows the family composition of the subject children grouped by age. As discussed above, the majority of the court records indicated that both parents were included in the child's family composition. There is an increase in the category "Other", referring to carers other than parents and grandparents, in the family composition, as the children got older. The qualitative data gathered from court records also indicates the increased presence of uncles and aunts, step-parents and foster carers in the children's lives. This is examined further in the analysis of the child's household in the section 3.11.

**Table 3.10.1: Family composition by age of child (noting family members recorded on court file as the child’s family)**

Family member	Age of children					Total
	Age <= 1 year (N = 22)	Age 2–5 years (n = 62)	Age 6–10 years (n = 30)	Age 11 – 14 years (n=29)	Age 15+ years. ( n=12)	
Mother	21	60	29	19	11	140
Father	17	54	29	17	8	125
Sibling	21	54	29	28	9	141
Grand parents	17	51	23	21	10	122
Other	4	25	15	18	6	68

### **3.10.2: Parents' Relationship**

The court records recorded details about the parents’ relationship for 105 of the 156 children in the study. Of this, 64 children (41% of the 156 children in the study) had parents who were separated (N=63) or divorced (N=1). However, a significant proportion of the records did not record the status of the parents’ relationship (N=51, just over 32% of the records for the 156 children in the study).

**Table 3.10.2: Parents' Relationship**

<b>Relationship status of parents</b>	<b>No. and %</b>
In partnership	20 (12.8%)
Separated	80 (51.3%)
Divorced	1 (0.6%)
Never Partners	1 (0.6%)
Deceased	3 (1.9%)
Not recorded	51 (32.8%)
<b>Total</b>	<b>156</b>

### **3.10.3. Absence of parents in child's family composition**

What emerged in the study was the extent to which fathers were absent from the child's family composition as listed on the court record. Of the 156 children in the study, the percentage of fathers not listed in the family composition, and thus absent in the lives of the children, was double that of mothers. Table 3.10.3 shows that 29 of the 156 children (18.6%), almost one –fifth of the children in the study, do not have their father listed as part of their family composition; 14 of the 156 children (N=9%) do not have their mother listed as part of their family composition.

**Table 3.10.3 Absence of parents**

	<b>Father</b>	<b>Mother</b>
In Family composition	125 (80.1%)	140 (89.7%)
Not in family composition	29 (18.6%)	14 (9%)
Not Recorded	2 (1.3%)	2 (1.3%)

### 3.11 Household of children

The household of the children refers to with whom the child lives and their relationship to the child. Children in the study variously lived with: mother, father, siblings, extended family (grandparents), other carers. This last category included other family members such as uncles and aunts who may be caring for the child, and also includes foster carers. What emerged was the number of children who have grandparents (and one great grandparent) as their primary carers (N=48). The same number of children are cared for in foster care (N=48). Table 3.11.1 sets out who is caring for the children in the study, related to the age of the child.

**Table 3.11.1: Carer arrangements for children in the study (N=156)**

Family Member	Age category of children in the study					Total
	Age <=1 year	Age 2-5 years	Age 6-10 years	Age 11-14 years	Age 15+ years	
Both parents	1	1	1	2	0	5
Mother	7	8	5	5	1	26
Father	0	0	2	3	1	6
Brother	0	0	0	2	0	2
Maternal grandparents	3	24	2	3	1	33
Paternal grandparents	3	7	4	0	0	14
Paternal Great Grandmother	0	1	0	0	0	1
Aunt & Uncle	0	2	1	2	1	6

Great Aunt	1	0	0	0	0	1
Cousin	0	2	0	0	0	2
Friends	1	1	0	0	0	2
Permanent Placement	0	1	2	0	0	3
Residential Unit	0	0	2	1	4	7
Foster Care	6	15	12	11	4	48
						156

Current care arrangements for the child were compared with what was recorded about the child's placement prior to the most recent court decision about the child. This may, or may not, have included a child protection service recommendation that the child's placement should change. Table 3.11.2 provides data about the most recent carer of the children in the study to compare against current care arrangements. It is clear that very few changes have been made, suggesting that decisions about the child and their place of residence have been made much earlier in the life of the case and the child's living circumstances are relatively stable. There are slight changes in care by parents, one child has been moved from the mother's care and five from their father's care suggesting the court has found they are not capable of caring for the child, whether because of risk, or changes in parent circumstances.

The following case excerpts are constructed from the qualitative data recorded on the court record survey sheet. They set out the fragmented living circumstances of children in the study:

Mother has drug problems, has left children with extended family on multiple occasions. Police have been involved with her many times for drug trafficking, major drugs. Lots of people move in and out of the house, they are drug affected. Mother is always late to access. Family Court has given residency of child and two siblings to the maternal grandmother. The mother will not consent to drug screens. The eldest child lives with the father in NSW; the youngest child was born heroin dependent (Cases 22a-22e: children 4, 6, 7, 15 years old).

The child lives with a sibling, another much older brother, his girlfriend and their new baby. The father is in prison. The mother lives elsewhere. There have been numerous notifications and court appearances since over the past nine years. Considerable physical violence in the home. The father has thirty year drug history. The eldest brother (who is caring for the child) was referred to child protection for inappropriate sexual behaviour when he was twelve years of age. The family is and has always been chaotic (Case 35a and 35b: children 11 and 12 years old).

Twins who have been in care since they were six months of age. They are now in a permanent placement after attempts at reunification have failed. The mother is transient, she has moved between Victoria and Western Australia on a number of occasions. She has intermittent contact with the twins. They have three older siblings who live in country Victoria with the mother. The father is in prison in WA. (Case 23a and 23b: children 8 years old).

**Table 3.11.2: Most recent carer (N=156)**

Family member	Age category of children in the study					Total
	Age <=1 year	Age 2-5 years	Age 6-10 years	Age 11-14 years	Age 15+ years	
Both parents	1	2	3	0	0	6
Mother	8	9	4	5	1	27
Father	0	1	3	5	2	11
Brother	0	0	0	2	0	2
Maternal grandparents	5	14	6	1	1	27
Paternal grandparents	0	6	6	0	1	13
Paternal Great Grandmother	0	1	0	0	0	1
Aunt & Uncle	1	4	2	1	1	9
Great Aunt	1	0	0	0	0	1
Cousin	0	2	0	0	0	2
Friends	2	1	0	0	0	3
Permanent Placement	0	0	2	0	1	3
Residential Unit	0	0	2	1	4	7
Foster Care	6	21	5	10	5	47
Not recorded	0	5	2	1	0	8
<b>Total</b>						<b>156</b>

### 3.12. Family fragmentation

The pattern of fragmentation of family and place of residence of the children in the study is described above. Table 3.12.1 below provides data about the extent to which the 38 sibling groups (out of the 91 families in the study) varied in parental arrangements. Of the 38 sibling groups, 13 of these families, comprising 34 children, had different mothers or fathers within the same family. In the families in which there were three children in the sibling group, four of these families had two siblings with the same father and one sibling with a different father. In the family comprising six children, they all had the same father but four children had one mother, the other two another mother.

**Table 3.12.1: Family fragmentation (N=34)**

Number of siblings per family	No of families with different fathers	No of families with different mothers
2	7	1
3	4	
6	0	1
Total	26	8

Seventy-seven of the 156 children in the study were recorded as having step or half-siblings as part of their family composition. However, thirteen percent of these step or half-siblings lived with the subject child. Table 3.12.2 shows the number of families with one to five step- or half-siblings in the family composition.

**Table 3.12.2: Family groups comprising step and half-siblings**

No. of half or step-siblings in family	Number	% (of 34 families)
1	11	32.3
2	13	38.2
3	3	8.8
4	4	11.8
5	3	8.8
<b>Total</b>	<b>77</b>	<b>100.00</b>

These 77 children were subject to a range of care arrangements, which may include placement with their parents, extended family or foster care. These care arrangements are set out in Table 3.12.3.

**Table 3.12.3: Care arrangements for step and half siblings**

Living Arrangement	No of step/half siblings
With Subject child	10 (13%)
Father	18 (23.3%)
Mother	7 (9%)
Grandparents	5 (6.5%)
Foster Care	12 (15.6%)
Other	7 (9%)
Not recorded	18 (23.4%)
<b>Total</b>	<b>77</b>

The fragmentation of children’s living arrangements is illustrated in the following case excerpt:

Three siblings whose mother and father (of two of the children, the father of the third child is in prison) died before they were five, four and three years of age, have significant health and behavioural problems. The children initially lived with their maternal grandmother after their mother’s death but were removed from her care after she was identified as abusing drugs and alcohol. The children have experienced a number of moves between care arrangements which are hard to sustain, given the children’s difficult behaviours. Their history of abandonment, physical and emotional trauma, family violence, drugs and exposure to criminal activity has led to behaviours that make it difficult to place the children in the one placement. Currently, the first and third child are in foster care. The second child has been placed with extended family, after eviction from a residential unit for aggressive behaviour.

An analysis was made of the living arrangements of children whose mother is currently incarcerated (see Table 3.12.4), with a distinction made between pre-school children (see Table 3.12.5) and children at school. This distinction is made to facilitate data analysis of the health and education problems recorded about the children on the court files (see Section 3.13). Table 3.12.4 indicates that children of school age in the study, whose mother is incarcerated, rarely lived with their father.

**Table 3.12.4: The living arrangements of children in the study of school age whose mother is in prison (N=23).**

	Child’s living arrangements				
	Foster care	Extended Family	Mother	Father	Other
No. of children	12 (52%)	7 (30%)	0	1 (4.3%)	3 (13%)

However, table 3.12.5 indicates that younger children, of pre-school age, are more likely to live with relatives such as grandparents and 50% of the school aged children, whose mother is in prison, live in foster care.

**Table 3.12.5: The living arrangements of children in the study of pre-school age whose mother is in prison (N=18). (Note the children living with mother live with her in the prison)**

	Child's living arrangements				
	Foster care	Extended Family	Mother	Father	Other
No of children	5 (27%)	9 (50%)	2 (11%)	0	2 (11%)

### 3.13. Education and Health concerns

Data was gathered, as much as possible, from the court records about each child's health status and education. This was explored given these concerns emerged as a key indicator of the impact of instability of care these children experience and the poor development outcomes they achieve. It was often difficult to glean this information from the court records, except in very general terms. What data was able to be gathered however, presents a concerning view of poor health in the younger children and disruptive behaviours in the older, school age children.

The findings were collated according to children of school age and children not yet at school. A comparison of the two groups showed that 23 (33%) of the children who were not yet at school were experiencing health problems, whilst 20 (23%) school aged children had health problems. The level of poor health in pre-school aged children was higher than those of school age. This is consistent with the high dependence of young children on their carers to

meet their needs and maintain their health. The same difference in numbers is also seen in the category of “medical condition” with non-school aged children almost double that of school age children.

Fifteen children in the study (17.2%) were described in court reports as malnourished and attending school with no lunch. This figure was similar to that of children in the pre-school age group. Comments by children to child protection workers, noted on the court reports – generally from children who had experienced a long history of family chaos- reported an absence of food in the house on numerable occasions. These children were noted as experiencing a range of health problems, including problems with their teeth, eyes and ears, for which a number of children required surgery to remedy their hearing. Table 3.13.1 lists the category of “Other”, which is used to record health problems other than those just noted. Of the five children who are categorised in this way, one child who had witnessed the murder of their father was recorded as experiencing significant symptoms of post-traumatic stress disorder, including binge eating until vomiting and self-harming behaviour. Another child was noted as displaying sexualised behaviour towards their sisters.

**Table 3.13.1: Number of children of school age with health concerns (N=87)**

	Health problems recorded on court records				
	Health problems	Medical condition	Malnourishment	Developmental delay	Other
Yes	20 (23%)	9 (10.3%)	15 (17.2%)	4 (4.6%)	5 (5.7%)
No	53 (60.9%)	65 (74.7%)	57 (65.5%)	67 (77%)	64 (73.5%)
Not Recorded	14 (16%)	13 (15%)	15 (17.2%)	16 (18.3%)	18 (20.6%)

**Table 3.13.2: Number of children of pre-school age with health concerns (N=69)**

	Health problems recorded on court records				
	Health problems	Medical condition	Malnourishment	Developmental delay	Other
Yes	23 (33.3%)	13 (18%)	13 (18%)	11 (16%)	4 (5.8%)
No	36 (52.1%)	45 (65.2%)	45 (65.2%)	47 (68.1%)	54 (78.2%)
Not Recorded	13 (18%)	11 (16%)	11 (16%)	11 (16%)	11 (16%)

The qualitative data gathered from the court records about the health problems of children in the study provided greater detail about the nature of the problems these:

Mother does not provide food for child at school or glasses that are needed. Child has no school uniform and is socially isolated (Case 27: child 12 years old).

When child taken into care at twelve months, child had umbilical hernia, nappy rash, did not respond to noise, was fed coca -cola in baby bottle, would only eat processed food (Case 64: child 2 years old).

Child has spinabifida untreated (Case 47a: child 10 years old).

Child admitted to hospital with testicular hernia that had been untreated. Child had chest problems and was obese. Child in pain when brought to hospital (Case 56b: child 3 years old).

Child protection service found child was chronically unwell and not given any medical treatment (Case 49a: child 4 years old).

Child has hepatitis C and a metabolic disorder (Case 5: child 4 years old).

Child has cerebral palsy and motor problems. Child is very aggressive after access visits with father. Child head bangs (Case 36: child 4 years old).

Child has urinary tract infection and slow weight gain (Case 71a: child 2 years old).

Data was also gathered about what was noted as difficulties experienced by school aged children to establish what impact parental imprisonment might have on the children's educational outcomes. Children of school age were noted as experiencing a range of problems, from general comments about disruptive behaviours, to queries about Attention Deficit Hyperactivity Disorder, and need for services to address delayed speech. A number of the children were already receiving assistance from intervention services to address their problems. One-third of school aged children with behavioural problems were recorded as working with counselling services. Whilst children at school were recorded as experiencing more problems with disruptive behaviour, it was also concerning to note the number of children yet to commence school who were noted on court records as exhibiting some of the same socio-behavioural problems as displayed by the children already at school. Child care settings and carers reported these concerns and there were early intervention services in place for a number of these children. It was observed that court reports would often list "school involvement" as an agency providing assistance to a child who was before the court, and schools appeared to offer considerable support to these children, whether or not the children were receiving formal counselling. Table 3.13.3 sets out the number of children who were noted by their school as displaying behavioural problems, and also indicates the number of children receiving therapeutic services for these behavioural problems.

**Table 3.13.3: Number of children of school age with behavioural concerns (N =62).**

	Disruptive Behaviour	ADHD	Counselling
Yes	24 (27.6%)	2 (2.3%)	36 (41.3%)
No	54 (62%)	69 (79.3%)	34 (39%)
Not Recorded	9 (10.3%)	16 (18.4%)	17 (19.5%)

The qualitative data about the health and education of children provides greater detail about the health and education concerns these children experience:

Child not at school thirty percent of the time. Exhibits challenging behaviour. Child not dressed appropriately, child stays overnight with friends frequently for food, child not given lunch at school. Child behind in learning (Case 28: child 9 years old).

Child is disruptive, cannot concentrate at school (Case 76b: child 10 years old).

Child missed 82 days of school in 2005 but very bright and loves school. Mother does not provide food for child at school or glasses that are needed. No school uniform and socially isolated (Case 27: child 12 years old).

Child has had numerous changes of school. Poor academic performance (Case 34a: child 12 years old).

Child has poor hygiene, high absenteeism, challenging behaviour (Case 3c: child 8 years old).

Child throws rocks at school. Mother will not sign forms to have child assessed for counselling. Child has anger issues, threatens self-harm. Child absconds from school (Case 38: child 13 years old).

Child copes well at school now she is in stable family life. Is a member of a Youth Choir (Case 50: child 13 years old).

Child has mild intellectual disability and oppositional defiant disorder; attends special school. Child has been suspended on several occasions for aggression and non-compliance (Case 77: child 16 years old).

Child has speech problems and dental problems (Case 75b: child 12 years old, other four siblings also have dental problems).

Child has significant learning difficulties, particularly with comprehension and oral cognition (Case 59a: child 12 years old).

Following on from findings about the health and education concerns of children whose mother is in prison, further analysis of the data examined the behavioural concerns recorded about this group of children, finding disruptive behaviour in school aged children was noted as a particular concern about this group of children. Tables 3.13.4 and 3.13.5 below present data about the behavioural concerns and health problems recorded about the children whose mother is in prison.

**Table 3.13.4: Children of school age whose mother is in prison: behavioural concerns (N=23).**

	Behavioural concerns noted			
	Learning Issues	Disruptive Behaviour	ADHD	Delayed Speech
Yes	5 (21.7%)	7 (30.4%)	1 (4.3%)	1 (4.3%)
No	17 (73.9%)	16 (69.5%)	19 (82.6%)	21 (91.3%)
Not Recorded	1 (4.3%)	0	3 (13%)	1 (4.3%)

**Table 3.13.5: Children of school age whose mother is in prison: health problems (N=24).**

	Health problems recorded				
	Health Issues	Medical condition	Malnourishment	Developmental Delay	Other
Yes	2 (8.6%)	1 (4.3%)	1 (4.3%)	0	3 (13%)
No	19 (82.6%)	20 (87%)	20 (87%)	20 (87%)	20 (87%)
Not Recorded	2 (8.6%)	2 (8.6%)	2 (8.6%)	3 (13%)	0

The quantitative data offers only part of the picture of how chaotic these children's lives are as a result of their parents' issues. The following comments are extracts from court records:

The child's mother has problems with drug abuse, threatening behaviour, transience. Whilst the mother was in prison, her partner physically abused the child. The child was first notified at 12 months of age for physical abuse while in mother's care. Ongoing child protection notifications include child found looking in rubbish bins for food. Child did not attend school when young. Several attempts have made at reunification between mother and child

but they have been unsuccessful. The child has been out of the mother's care since seven years of age. Child was in permanent care placement but this broke down. Child now in residential care. The father's parents do not want contact with child (Case 24: child 15 years old).

The cohort of pre-school children whose mother is currently in prison were recorded as having a greater percentage of behavioural concerns noted about them on the court records, than for the all children of pre -school age in the study (N=69). Of the 18 pre-school aged children whose mother is in prison, four of the children were reported as displaying disruptive behaviours, concerning given these children are aged from birth to five years of age. Table 3.1.3.4 sets out the number of pre-school aged children noted on court records as displaying behavioural problems.

**Table 3.13.6: Number of children of pre-school age noted as having behavioural concerns and children receiving therapeutic services (Number of pre-school aged children in the study=69)**

	Types of Behavioural issues				
	Disruptive Behaviour	ADHD	Delayed Speech	Speech Therapy	Counselling
Yes	8 (11.6%)	0	8 (11.6%)	6 (8.7%)	7 (10.1%)
No	50 (72.5%)	58 (84%)	49 (71%)	51 (74%)	51 (74%)
Not Recorded	11 (15.9%)	11 (15.9%)	12 (17.4%)	12 (17.4%)	11 (15.9%)

Health problems appeared to be more commonplace for pre-school children whose mother is currently in prison. Data recorded in Table 3.13.7 about these concerns for this cohort of children shows that nine of the eighteen children had health problems, almost 25% of the children were malnourished, and more than 25% had been assessed as having developmental delay.

**Table 3.13.7: Pre- school children whose mother is in prison: health concerns (N=18)**

	Health concerns				
	Health problems	Medical condition	Malnourishment	Developmental delay	Other
Yes	9 (50%)	3 (16.6%)	4 (22.2%)	5 (27.8%)	3 (16.7%)
No	5 (27.8%)	10 (55.6%)	9 (50%)	8 (44.4%)	15 (83.3%)
Not Recorded	4 (22%)	5 (27.8%)	5 (27.8%)	5 (27.8%)	0

### 3.14. Support services for children

Children of school age who were identified as having learning issues were often referred to learning support services or other services. There were 87 children of school age identified in this way, 21 (24%) of whom were noted as having learning difficulties, 6 (6.8%) were noted as enrolled in a reading recovery program, and 5 children (5.7%) were identified as having integration aides attached to them at school.

**Table 3.14.1: Number of children with learning issues and engaged in school services (N=87)**

Engaged with support service	Reading Recovery	Integration Aide
Yes	6 (6.8%)	5 (5.7%)
No	60 (69%)	62 (71.2%)
Not Recorded	21 (24.1%)	20 (23%)

Of the children who at school, there were other concerns raised about their behaviour, and specialist interventions offered at the school to assist them. It is clear that the combination of learning difficulties were compounded by behavioural problems and social integration into

school life. Counselling services may be accessed by other family members as well as the child, to address the behavioural difficulties described. There were 87 children of school age in the study. Of this cohort of children, 48 children were identified as receiving therapeutic services: treatment for speech difficulties and counselling for individual concerns the children exhibited, mostly targeted at disruptive behaviours, as set out in Table 3.14.2:.

**Table 3.14.2: Number of children of school age engaged in therapeutic services (Number of school aged children in the study =87).**

	Disruptive behaviours at school	ADHD	Delayed Speech	Speech Therapy	Counselling
Yes	24 (27.6%)	2 (2.3%)	7 (8%)	5 (5.7%)	36 (41.3%)
No	54 (62%)	69 (79.3%)	65 (74.7%)	66 (75.9%)	34 (39%)
Not Recorded	9 (10.3%)	16 (18.4%)	15 (17.2%)	16 (18.4%)	17 (19.5%)

### 3.15. Transience

Two key aims of the study are to: examine the care arrangements for the children, who were the focus of the study, to discover what factors impact on their stability of care, most particularly when the parent is the primary caregiver, and to explore the factors that bring the children to the attention of the child welfare and justice systems. What was clear from the quantitative data (see Table 3.8.3) was that transience was listed as a child protection concern for 41 of the 156 children in the study. Fifteen of these children were aged between two and five years, three were less than twelve months. This lack of stability in these children's lives affected more than one in ten children from birth to five years of age. The qualitative data recorded on court files confirms the extent to which the care of the children in the study

moved between a range of extended family members and out of home care, and the transience in the living circumstances of the parents of the children.

The circumstances of one child exemplify this. One infant (aged less than twelve months at the time of the study), born with a brain injury, had seven different placements in three months: from mother to uncle, to friends and then to foster care. The child currently lives with an uncle, and has respite care with foster care on a monthly basis. A second case example is of three children whose mother and father (of two of the children, the father of the third child is in prison) died before they were five, four and three years of age. The children display significant health and behavioural problems, ranging from attachment disorder, health problems, poor social skills, to challenging behaviours one child being diagnosed as having Attention Hyperactivity Deficit Disorder. The children's extensive history of abandonment, physical and emotional trauma, family violence, drugs and exposure to criminal activity has fractured their care arrangements. The children do not live together: the eldest and youngest children are in foster care, the middle child lives with extended family, no longer able to live in a residential unit because of displays of aggressive behaviour. Their case record does not note the exact number of moves the children have experienced but does note that the children were placed with their maternal grandmother after their mother's death but were subsequently removed from her care when it was identified that she had major substance abuse problems. What is clear from these examples and from the findings presented herein is that lack of long term planning for these children, who often move from placement to placement in the hope that there will be family reunification, even when it is clear that the risk factors to these children, or siblings before them, indicate a lack of parental capacity, perhaps also a lack of motivation, to care for their children.

### **3.16. Welfare Agencies**

The families of the children in the study received extensive community based health and welfare services from a range of providers. Community based agencies who offered intensive family support, parenting programmes or respite and other child care were regularly listed in court reports. So too were drug and alcohol, health and mental health agencies. Court records did not often note which family members were receiving the specific services, but most services directly addressed the child protection concerns that had brought the children to the attention of the Court. Children's schools were an important support for children, especially it seemed for the older primary school age children. Services included as "other" are those agencies that offered specific programmes such as anger management and men's support groups. Table 3.16 sets out the number of times each category of agency was recorded on court records as involved with a family whose child was included in the study. What was concerning was that despite significant investment in supporting families, parents could not demonstrate an on-going capacity to care for their children, and the high numbers of young children unable to return to parental care.

**Table 3.16: Welfare Agencies**

<b>Agency name</b>	<b>No. ( N= 91)</b>
Community welfare and other services	31
Drug and alcohol	28
School	20
Medical practitioner	18
Hospital	17
Respite foster care	13
Maternal and child health	13
Prison based services	12
Police	11
Youth Services	10
Aboriginal child care agency	8
Psychiatric services	7
Housing	6
Community health services	5
Other	4
Child and adolescent services	4
Residential parenting services	5
Crisis mental health response service	3
Child care centre	2
Forensic mental health	1
Community corrections	1

### **3.17. Vignettes**

The following vignettes are constructed from the case records in the study to illustrate the experiences of the children in the study.

#### **Vignette 1**

A family comprising six children aged thirteen, eleven, ten, eight, seven and four years, there are four girls and two boys in the family, and both parents are in prison for violent crime. The children are well known to the child protection service, there have been over eight substantiated child protection notifications and sixteen court appearances relating to child protection orders. The children are subject to a Custody to the Secretary Order.

The children have been exposed to long term violence and emotional abuse, their father is recorded as particularly violent towards the immediate and extended family, and thus they will not care for the children into their care whilst the parents are incarcerated. The parents have significant drug abuse problems, and the father has been diagnosed as having a drug induced psychosis. The father's parents are very critical of the children's mother, which the children have described as very upsetting. The children's mother has previously left the father because of domestic violence but then reunited with him.

When the parents were taken into custody, the children were placed with their paternal grandparents for one week, then were placed in foster care. Despite the difficult life circumstances the children are reported as meeting their developmental milestones, and all bar the youngest child are at school.

#### **Vignette 2**

Two sisters aged 14 and 9 years old have been known to the child protection service for more than ten years because of disclosures of sexual abuse, by the older child, by the father. Child protection investigation assessed that the mother could protect the child and the case was

closed. Child protection received the first notification about the children based on their exposure to domestic violence and the mother's deteriorating mental health. The younger child returned from an access visit with her father, when two years of age, with bruising and demonstrated what was described as "disturbed behaviour". However, child protection did not intervene as the child was in the care of her grandparents, where she has continued to reside. When this child was five years of age she began to display sexualised behaviour and when six years of age disclosed ongoing sexual abuse by her father; the case was however closed by child protection. When the younger child was seven years, the father was sentenced to imprisonment for sexual abuse of the younger child. The mother was imprisoned around the same time for theft, and later that year became an involuntary psychiatric patient. The parents have significant drug problems with heroin and marijuana. The mother has spasmodic contact with her daughters. The older child had reported to child protection workers that when she lived by herself with her parents there was often no food in the house. The older child is described as parentified in terms of caring for her parents.

The girls have stability of care, the older child now resides with her Aunt the younger child resides with the maternal grandparents. However, the older child is now engaging in self-harming behaviours.

### **Vignette 3**

A four-year-old girl came to the attention of the child protection service when she was eight months, both parents were (and still are) heavy drug users; the father was already known to child protection because of the death of his first child at nine months from severe neglect. The second notification made to child protection referred to the parents' heroin use and neglect of the child. The third notification one year ago occurred after the mother was charged with receiving stolen goods and for drug-related offences. Both parents are now in prison. The child lives with the great paternal grandmother and paternal great uncle. Her maternal grandmother has a six-month-old daughter and an ongoing intervention order against her husband. When the mother has had access with the child she severely regresses in her behaviour.

The child has been assessed as suffering from post-traumatic stress disorder, stemming from the serious neglect and abuse she has endured. She has been observed engaging in self

harming behaviors. She hides under tables in fear and stops herself from crying or seeking assistance from her caregivers if she is hurt or frightened. When removed from her parents' care she had to have fourteen teeth removed, they were very damaged and she struggling to eat. She has been observed to eat paper and drink water from the toilet, she is described by child protection workers as constantly hungry. When removed from her parents' care he was malnourished, dirty and had significant eye problems that were left untreated. She now requires major surgery. She is reluctant to play with other children.

The vignettes highlight the study aims. They convey why the children have come to the attention of the child protection service, the lack of continuity and stability in their care arrangements for these children, and the impact of this, and parental incarceration, on their health and well-being.

## **Chapter Four: Discussion**

This study set out to explore the extent to which children with a parent currently or previously in prison, or awaiting sentencing, feature in child protection matters, and the factors that bring the children to the attention of the child welfare and justice systems. It sought also to examine the care arrangements for these children, in order to discover what factors impacted on the stability of their care, most particularly when the parent is their primary caregiver.

The study was undertaken in the Family Division of the Melbourne Children's Court, the Court that hears all child protection matters that arise in metropolitan Melbourne, Victoria, a city of approximately 3.5 million people. The study sample was drawn from child protection cases brought before the Family Division of this Court during the study period: January to December, 2006. The study sample comprised 156 children with a parent in prison, a parent who has been in prison or is awaiting sentencing, the findings about these children have been set out in Chapter 3.

### **4.1. The children and their parents**

The rising incarceration rates of women brings with it an equally increasing group of children who are affected by their parent's imprisonment. The literature review revealed that whilst the number of children who have a parent in prison is not exactly known, it was reported that in NSW in 2001 around 14,500 children under 16 years of age had a parent in prison, and in the USA, more than 1.5 million children were believed to have a parent in prison in 1999 (Mumola, 2000). It was reported that 75% of female prisoners in Australia are the mothers of dependent children (Office of the Correctional Services Commissioner, 1996),

and that these children are young with a significant proportion under six years of age (Guransky et al., 1998). The study sample of 156 children who made up the 91 families whose parent or parents were before the Court on child protection matters, were indeed very young: their mean age of the children was 6.19 years old (as of January first, 2007), and more than half the child protection matters involved children aged between birth and five years (N = 70; 53.8%), followed by children aged between 6 and 10 years (N = 31; 19.9%).

Of the 156 children in this study, 19 (12.1%) had both parents in prison; 47 (30.1%) children with their father currently in prison and 23 (14.7 %) with their mother currently in prison. Although fewer children had their mother in prison than their father, of the 23 children whose mother was in prison, for ten of the children their mother had been in prison previously, suggesting on-going fragmentation in the children's lives. What was noted in the literature review was the extent to which the lives of these children is often marked by problems associated with their parents' offending, problems such as substance abuse, mental health problems, family violence and child abuse and neglect. Problems that bring the children into contact with child protection services and other welfare agencies. It was clear that this was the case for the children in this study; children in the age group of six to ten years with a mother currently in prison and who had been in prison, had experienced a high level of child protection intervention as well as family fragmentation. The criminal convictions for the mothers of this group of children confirmed the pattern of substance abuse, mental health problems, family violence and child abuse and neglect noted by McGuigan and Pratt (2001), Humphreys et al. (2001) and Goddard and Stanley (2004). The mothers in the study were in overwhelmingly prison for theft, drug related offences, murder (in one case) and armed robbery. Criminal convictions for fathers received little attention in court records as the children were typically in their care of their mother, whose offending gave rise to child protection concerns.

The fragmentation of these children's lives was clearly apparent when looking at when care and protection concerns first led to notifications about the children in the study; one-third (N=51) of the children were first notified to the child protection service between birth and two years of age, children who were clearly at risk from their infancy. The concerns were significant, as 48 of these children were brought to the attention of the court on their first Protection Application between birth and two years of age. For 45 of the children they remained of child protection concern, and 37 had been placed on Interim Orders, for assessment of parent care, or beginning their care with extended family or foster care. The high number of children subject to Custody to the Secretary Orders: 25 children, from birth to five years, eleven children aged six to ten years, (33.3%), where children are out of their parents' care for periods of up to two years, confirms the significant disruption in these children's lives. Overall 42 children were placed on a Custody to the Secretary Order, almost one-third of the children in the study, and half of these children commenced care away from their parents at a very young age. Farrell (1997), Healey et al. (2000;) and Guransky et al. (1998) refer to the disruption in care these children experience and underline the difficulties there are for these children in maintaining family ties, which is looked at in more detail in the next section.

## **4.2. Care arrangements for the children**

The fragmented nature of care for children of prisoners, and in particular women prisoners, has significant consequences for children's stability (Sheehan and Levine, 2004), and this was certainly evident for the children in this study. Whilst younger children, whose mother was in prison, tended to be placed with their grandparents, maintaining family connections, once children were at school this was less likely to happen. This latter group of children were

more likely to be placed in foster care, suggesting that family placements are unavailable, either because the children's needs cannot be met for extended family, or family members are unwilling or unsuitable as carers. The lack of stability in these children's lives affected more than one in ten children from birth to five years of age, as children frequently moved between a range of extended family members and out of home care, with their parents equally transient in their living circumstances. This transience was presented as a child protection concern for 41 of the 156 children in the study, and fifteen of these children were aged between two and five years, with four aged less than twelve months.

What was also evident was the fragmentation of family relationships for these children: 48 children cared for by grandparents with the same number in foster care. Grandparents had the care of 38 of the children aged between birth and five years whilst 21 children in this age group were in foster care. The lack of family care for these very young children mirrors the instability of care Murray (2007) suggests these children experience, and the life-long consequences that this instability brings. This fragmentation was also revealed in court record details about the status of the parents in the children's lives. Of the 156 children in the study, 29 (18.6%), almost one-fifth of the children, did not have their father listed as part of their family composition and 14 children (9%) did not have their mother listed, leaving almost 28% of the children with a mother or father absent in their lives.

Fragmented family relationships, and the impact this has on who cares for the child is seen in the findings about family structure. There were 38 siblings groups of children out of the 91 families (and 156 children) in the study and 13 sibling groups, comprising 34 children, had different mothers or fathers, and few children in the study actually lived together as sibling groups, variously placed between parents, extended family and foster care. The possibility of family reunification becomes tentative when children have negligible contact with their

parents whilst they are in prison, and when they have few connections to extended family. The older the children become the more likely they are to have changes in their living arrangements, when their parents leave prison and attempts at reunification are made, when their parents enter new relationships, or move around. Stanley and Byrne (2003) remind that maintaining contact between children and parents in prison is challenged by issues such as distance, transport services, the cost of visiting prisons and the lack of child friendly access arrangements in the prison, all of which stress already strained relationships between children, their parents and extended family.

Thus, family connections that are already tentative for these children can break down completely, and the children move into foster care. Changes in schools, in place of residence, in access to friendships, leisure and community activities create significant instability for these children. Murray (2007) reminds that this instability can have life-long consequences, make these children vulnerable to mental health and relationship problems, to poor education and employment outcomes.

The impact of the experiences of the children is reflected in the reasons why these children come to the attention of the court, the disruption and instability is evident in the health, welfare and behavioral concerns expressed about them. Poor health outcomes were already clear amongst the pre-school children, higher than those of the school-age children. Concerns noted were: children not being fed adequately, children coming into care with severe nappy rash, with chest problems and colds, were inappropriately clothed and had poor hygiene. One-third of the children not yet at school were noted as experiencing health problems compared to 23% of the school aged children, and 17.2% of this latter group were described in court reports as malnourished and attending school with no lunch. These were children who had experienced a long history of family chaos, and problems with their teeth, eyes and

ears, some needing surgery when they came into care.

The studies by Murray (2207, VCARO (2000) and the *Children of Prisoners Project* (2005) refer to children's feelings of grief and loss, anger, shame and isolation, fear, anxiety and depression, as well as confusion about their parents' behaviours, and this sense of confusion is evident in comments made about children's socio-behavioural problems in the court reports. Specialist interventions were already in place to assist many of the children with language and learning difficulties, services such as reading recovery programs and integration aides, and speech therapy. Counselling services were also in place to address behavioural problems and difficulties around disruptive behaviours and social integration into school life. Similar concerns about socio-behavioural problems were also being raised by child care settings and carers about children not yet at school, and already there was early intervention for this group of children. The loss of family relationships, lack of stability and continuity of care, and neglect of developmental needs directly contributed to the problems outlined above, increasing the children's vulnerability to longer term health and mental health problems, and poor education and employment outcomes.

### **4.3. The intersection between child welfare and justice systems.**

The extent to which the lives of the children in this study is affected by their parents' offending behaviours, their substance abuse, mental health and family violence has already been noted. The vulnerability of these children to child abuse and neglect brings them into contact with child protection services and the Children's Court. Seymour (1998) reminds that the lack of formal planning for children affected by parental offending and imprisonment creates fragmented living circumstances for these children, and impacts on their

psychological, social, and cognitive development. The children in this study who were the subject of child protection proceedings in the Children's Court, were there predominantly because of concerns about physical and emotional harm to a child, concerns about the child's physical development, or the parent's incapacity to provide care for the child. A number of the children were already in the care of grandparents, or other family, prior to their parent's incarceration, because of abuse or neglect, or are placed with their grandparents and other relatives as a result of the court proceedings, whether or not they are able to effectively care for the child. The financial and physical strain this creates, and the impact on extended family and relationships are all noted by Phillips and Bloom (1998) and Farrell (1998) who refer to the lack of planning for children who are at risk because of their parents' offending behaviour.

The child protection concerns about the children in this study arose directly from parental behaviours outlined above. Parental substance abuse was particularly pronounced across all ages of the children, although in children under five years of age, this was combined with problems with family violence, mental health and transience. Child neglect was a major concern, and when coupled with family violence and transience, created instability for these children. Younger children, those under five years, were significantly affected by neglect and emotional abuse, reflecting the not only their dependence on their parents but also the impact of parental incapacity to meet the children's needs. Concerns about the behaviour of children themselves and about disruptive and aggressive behaviour increased as they became school aged (six to ten years of age) along with concerns about health and schooling, often the result of chronic neglect. It was concerning that as children became older they were themselves starting to engage in criminal behaviour.

These child protection matters present particular challenges to the court. Community and legislation rightly urge welfare and legal decision-makers to keep children's relationships with their parents intact. What this can mean however is that planning for children is reactive rather than forward-thinking, with a lack of attention to the significance of continuity and stability of their care. When a parent is in prison, most particularly the parent who has been the child's primary caregiver, there is no formal process for factoring in what contact there can be between child and parent, and neither prisons nor the justice system see it as part of their remit to facilitate or normalise contact between children and their prisoner parent. Children whose mother is either currently in prison or has been in prison, and who have experienced a high level of child protection intervention and family fragmentation fare less well, as the study findings reveal. They do appear to be what the *Children of Prisoners Project* (2005:7) describes as "the forgotten victims of crime", and fall also between the gaps in the child welfare and legal systems; they are not afforded the priority their situation warrants in terms of public policy and welfare attention.

#### **4.4. Child protection and parental imprisonment**

The children who are the focus of this study are doubly disadvantaged: first, by their need for child protection, and second by their parents' offending behaviour and periods of imprisonment. The impact of both is profound, as is evidenced in the often fragmented family relationships and care the children experience, and the developmental and adjustment problems that result in social, educational and behavioural difficulties. Hagan (1995) describes these losses as a loss of social capital for these children, whose personal, economic and social deprivation increases their marginalisation. The particular circumstances of children, such as those in this study, receive no distinctive response from child welfare that addresses the often long-term nature of their difficulties. The child protection system does

not, as also found by Reed and Reed (1997) about the USA, have a specific policy about care for children when their parents were in the criminal justice system or in prison.

The event model of child abuse, which is the Australian approach, that looks for the single incidents of child abuse (Glaser and Prior (1997) poorly accommodates the needs of children experiencing chronic difficulties linked to their parents' offending behaviour. Equally, neither prison nor child protection systems appear to address the parenting responsibilities individuals in prison might have, and support contact between children and their parents as integral to any case planning for either the adults or the children. The focus of the child protection system, for the children in this study, was addressing immediate child protection concerns, with negligible attention to whether or not contact between parents who are prisoners and their children should be maintained. Nor did the prison system, as found by Tudball (2000), Sherman (2005) and Murray (2007), give priority to maintaining or promoting attachment between parents and their children.

#### **4.5. Limitations of the study**

The study set out to examine the intersection between the child protection and criminal justice systems and to the extent to which children before the Children's Court on child protection matters had a parent currently or previously in prison, awaiting sentence. Court records were examined to gather data about mothers and fathers in prison, the reasons they were incarcerated and the length of time they had been in prison (see Section 2.5). However the court records offered scant information; they typically simply stated whether or not a parent was in prison. It was not possible to understand in more detail what association there might be, if any, between the nature and extent of parental imprisonment (see Table 3.4) and its impact on their children. Such impact was inferred from data gathered about children, the

child protection concerns about them, and the education and health problems the children presented. The lack of information gathered about parents for court records reflects that the primary concern of the court and the child protection service is responding to immediate care and protection needs of the child. Whilst parental circumstances are also significant, the reasons why parents were incarcerated were rarely discussed in any detail. What information was included on the file depended on the what the author of the child protection application report believed the court needed to know in making a decision about a child protection order.

There is no predictability in the way cases are presented in court, they can be brief mentions of matters or longer hearings, and this again affected what material would be presented about the child and their parents and their individual circumstances. It was not always clear to Magistrates when parental imprisonment was a feature in case; it depended on being mentioned by the legal practitioners and child protection workers. The high volume workload of the court also meant it became difficult to track each case that was suitable for the study sample. The study relied on the Magistrate principal researcher to track cases and to remind magistrates to refer cases. However, changes in Magistrate assignment, country duty, the volume of work in Mention Court, meant not all cases eligible for inclusion in the study were referred.

Whilst there were these limitations, it is argued however, that the cases that were available for the study represent the range of child protection matters that are brought before the court and clearly reflect the issues and impacts of parental incarceration that have emerged in the research presented.

#### **4.6. Implications for future research and public policy**

The children who were the focus of this study were the subject of child protection concerns either because they had been abused or were at risk of significant harm because of their parents' offending behaviour, or their parents' imprisonment had placed them in a precarious situation. Whatever the reason for the children coming to the attention of the Children's Court, it was clear that the child protection and justice systems had different priorities and responsibilities and there were no formal protocols for information sharing and collaboration between them. Thus there was no co-ordinated response to managing the children's situations, no formal case-planning process that brought together the justice and child protection concerns and involved the key stakeholders in decisions about, for example, children and their care.

At the outset of this study it was suggested that there is an invisibility about children such as those who are the focus of this study, largely because they are not seen as the core business of relevant state departments. Yet it is clear that this group of vulnerable children is growing, as is the number of women and men being imprisoned. What this study has done is explore the extent to which children who have parent currently or previously in prison, or likely to enter prison, who have experienced child abuse and neglect. It has found the impact on these children is significant, and as they grow older their social and behavioural problems lead to learning, educational and emotional health problems that create long-term difficulties.

The next step for research is to look at this group of children in comparison to all children who come before children's courts on child protection matters, to better discern what is distinct and distinctive about children in the child protection system with prisoner parents. Are their care arrangements less stable and continuous? Do they have more fragmented

relationships with their own parents and extended family? Are they children more socially isolated from family and community? As children do they experience more learning difficulties and behavioural problems than other children in the child welfare jurisdiction? Are they less likely to be re-unified with their parent or parents than other children in the child welfare jurisdiction? A broader study of all child protection matters would allow this, to discover what factors about parental imprisonment are particular to children in the child welfare jurisdiction.

It is clear that the child protection service must develop protocols with the corrections system about the children of adults who are primary carers when they enter prison, about who takes responsibility for their dependent children and the nature of the children's care. To that end it is recommended that there is a formal case-planning process instituted for each child, in this situation, either immediately prior to imprisonment, or very soon after imprisonment. It is further recommended that where children come into the child protection system because of their parents' involvement in the criminal justice system, there is a formal case-planning process to decide what should be the children's living circumstances, who should care for them, and what are the prospects for family reunification. It is essential that all agencies and organisations who work with the children of prisoners collaborate to identify the needs of these children: schools, child care agencies, foster care agencies, and health professionals, to ensure a comprehensive approach to these children's issues and co-ordinated responses.

It is strongly recommended that child protection policy is reviewed in relation to children who come into the child protection system because of their parents' offending behaviour or where the parent who is the primary carer of their children is imprisoned. It is clear the care these children receive is often disrupted, making their involvement with child protection services highly likely. Thus it is recommended there is earlier intervention by the child

protection service for these children when it is identified that parents are engaged in a lifestyle where offending may result in imprisonment. This early intervention must involve decisions about whether reunification of child and parent is possible, and if so how this is to be supported. If not, there needs to be case planning for long-term care for the child that offers them stability and continuity of care, as much as possible within extended family networks, who must be supported to enable the child to achieve their optimal development. It is essential that case plans that are developed recognise the importance of liaison with children's extended family members, the need for siblings to reside together, and that children's needs for services such as counselling, health and education are made a priority. Case plans must, unless there are clear reasons why this should not happen, ensure there is regular contact for children with their imprisoned parents.

This study makes clear the link between child welfare and adult jurisdictions. It is strongly recommended that adult courts obtain information about child care and protection matters involving offenders' children at the time of sentencing, most particularly when the offender is the primary carer of the child. The courts should, prior to sentencing, ensure that the needs of the children of the prisoners are identified and that these needs can be met by extended family or other appropriate carers. Finally, the families of prisoners must be given policy priority by all relevant statutory authorities to address the marginalisation and stigma they endure and assure them of the same social inclusion that is the expectation of any child growing up in contemporary Australia.

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