

# TRANSCRIPT

## LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

### Inquiry into Victoria's Criminal Justice System

Melbourne—Tuesday, 24 August 2021

#### MEMBERS

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Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

Ms Sheena Watt

**WITNESSES** (*via videoconference*)

Dr Mindy Sotiri, Executive Director,

Mr Robert Tickner, Chair, and

Mr Ian Gray, Patron and former Chief Magistrate of Victoria, Justice Reform Initiative.

**The CHAIR:** Hello, everyone. Welcome back. As you know, this is the Legislative Council's Legal and Social Issues Committee's public hearing into Victoria's criminal justice system. I am very pleased to welcome members of the Justice Reform Initiative, that being Dr Mindy Sotiri, Robert Tickner and Ian Gray. Thank you for making yourselves available today.

If I could just let you know that all evidence taken is protected by parliamentary privilege. That is under our *Constitution Act* but also under the standing orders of the Legislative Council. Therefore any information that you provide today is protected by law. You are protected against any actions coming from what you might say to us today; however, if you were to go elsewhere and repeat the same things, these comments may not be protected by that privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

Behind us we have Hansard listening to every word you say. They will provide a transcript for you over the next few days, and I would just encourage you to have a look at that and make sure that we did not mishear you or misrepresent you in any way. Ultimately those transcripts will form part of our report, and of course the information that you provide to us today will go towards the recommendations of this report.

I would really encourage you to make some opening remarks, and then we will open it up for committee discussion.

**Dr SOTIRI:** Thanks so much, Fiona. I am going to start, and then I will hand over to Robert as well to conclude our opening remarks. Firstly, thank you so much to the committee for having us here. I want to begin by acknowledging the traditional owners of the lands that we are meeting on today and pay my respects to elders past and present and any Aboriginal or Torres Strait people that are either at the inquiry today or that are watching online.

I wanted to open by noting that really in order to understand the increases in Victoria's prison populations, to explore strategies to reduce recidivism and to build alternative strategies we need firstly I think as our starting point to really acknowledge that we are currently incarcerating across Australia, and certainly right now in Victoria, large numbers of people who have been criminalised as a consequence of their disadvantage. We know that our prisons are filled with people who come from situations of extreme poverty and disadvantage. We also know that had the majority of people that we incarcerate right now received support and opportunity in the community—had they had access to resources, to education, to housing, to employment; had their disabilities and mental health conditions been adequately responded to; had they had access to drug and alcohol treatment at the moment when they needed help; had they had access to anchors and cultural connection in the community to assist with trauma and poverty and discrimination—then we would have a vastly different looking justice system.

There is very little debate about any of this in the research literature in terms of the demographics of who it is that we send to prison, but the fact of disadvantage of course does not and should not minimise the severity of crime or the impact that crime has on victims. But in order to really understand how to reduce the numbers of people in custody and how to understand the problems of the existing system, we absolutely have to have disadvantage really front centre of our analysis and really focus of course on the underlying social and economic causes and drivers of incarceration.

As the committee of course is very aware, there have now been more than three decades worth of government reports, inquiries and commissions into the over-representation of disadvantaged groups, including, significantly, Aboriginal and Torres Strait Islander populations, in Australian prisons and also reports into the failures of imprisonment for these groups. Without exception, this mountain of reports has pointed to the critical role of addressing the social and health drivers of incarceration, the failure of our existing systems to do

that and the need to respond very differently to the criminalisation of very poor, very marginalised and colonised populations. So although breaking cycles of recidivism, disadvantage and incarceration are sometimes thought of as something of a wicked policy problem or an area where it is really hard to know what exactly we should do about it, quite aside from the sort of mountains of government reports that outline very clear strategic directions in terms of the kinds of projects that work, there are also very clear examples and case studies both in Australia and internationally that point to different approaches that are largely led by the community and health sectors and that are led by First Nations communities also, which can and do make an absolutely profound difference in terms of disrupting really entrenched criminal justice system trajectories. I guess that our starting point is that there is not one magic fix. There are multiple programs, there are multiple reforms, that can and do make a significant difference, and the Justice Reform Initiative is very keen to work with government and multiple stakeholders to really drive these sorts of evidence-based approaches to reducing incarceration.

Some of those reforms are around sentencing and law reform. So, for instance, raising the age of criminal responsibility is absolutely critical. Changing bail laws is critical. But some of these reforms are also really about reducing recidivism, so really looking at what we can be doing post release. Some are around diverting people from the justice system and different approaches to policing and diversionary court options.

But there is a growing body of more formal research that also really explores the impact of different kinds of support and critically, alongside that, there is the expertise of people that have experienced incarceration themselves. There is practitioner expertise and experience that is not quite as easy to capture as sort of blunt recidivism data, but all of this information and all of this evidence is absolutely essential in terms of really contributing to our knowledge and understanding about what works in breaking these trajectories.

I guess, just to finish off, governments across Australia frequently note that reducing recidivism and reducing reoffending is a policy priority—and it should be, and it is—but rather than actually properly investing in community and health, rather than acknowledging the experts and researchers who have written submission after submission, the practitioners and the people with lived experience who have for decades been talking about and demonstrating how we might do things differently, we continue to spend billions of dollars building new prisons, billions of dollars each year in Australia locking people up, knowing that as we do that the experience of incarceration and justice system involvement increases the likelihood of further and more imprisonment.

So I guess the point that I wanted to end on is that it is not simply a matter of building an evidence base about what works. There is already a plentiful evidence base, including an alarming evidence base about prison's harms, and I am very happy to share with the inquiry whatever evidence we can. Really what has been lacking is resourcing and political will. So I just want to hand over to Robert to briefly introduce who the Justice Reform Initiative is and our approach with this.

**Mr TICKNER:** Okay. Well, thank you, Mindy, thank you, Chair, and thank you, committee members. The Justice Reform Initiative is something that has come into existence really only over the course of the last year, and it is something that I hope will inspire you if you believe in a better Australia, if you believe in evidence-based public policy, because what it has done is bring together a whole cross-section of people across party lines who are united in standing for the proposition that we ought to be in a much better space in the way that we deal with criminal justice issues in Australia.

The default mechanism for us is almost like something from the last century. It really is an awful outcome that our default response to crime is always to incarcerate. Our jails are absolutely at record levels, and we now have a higher incarceration rate than all of Western Europe, Canada and New Zealand, which claims to have just reduced its incarceration level by 25 per cent.

So what happened is that people of good will—not just people who had been in public life, but people engaged in the wider criminal justice system at the highest levels and many others, from the arts community and elsewhere—have come together in the Justice Reform Initiative with the aim of shifting the public conversation and shifting public policy in Australia to an evidence base.

We are honoured to have Sir William Deane and Dame Quentin Bryce as the patrons-in-chief. In Victoria, if I can just quickly run through the patrons, they include the honourable Jennifer Coate, AO, who you all know,

among many other things, was the commissioner in the Royal Commission into Institutional Responses to Child Sexual Abuse; Tim Costello; Jon Faine, the broadcaster; Petro Georgiou, a very prominent member of the Liberal Party; Louise Glanville, the chief executive of Victoria Legal Aid; Emeritus Professor Joe Graffam, former deputy vice-chancellor of Deakin University; Rob Hulls, former Deputy Premier and Attorney-General of Victoria; and Pat McNamara. Pat McNamara was the Deputy Premier for the whole of Jeff Kennett's term, I think. On the other side of politics, Justin Mohamed, the Victorian commissioner for Aboriginal Children and Young People; the Honourable Marcia Neave, former commissioner of the Royal Commission into Family Violence in Victoria; the Honourable Alastair Nicholson, former Chief Justice of the Family Court of Australia; and Peter Norden, known to many Victorians as the long-term Pentridge Prison chaplain and the founder of the Jesuit Social Services. I think he has devoted much of his life to these causes.

So, Chair, we really come to you with the profound hope that one of your core approaches to your report will be to try and find a common ground with Independents and people from different political parties on your committee to try and reach a principled consensus outcome for your report that really tries to bring out the best in the Parliament of Victoria and sends a message to the wider Victorian community around the importance of now making a shift in the way we deal with criminal justice issues.

In 60 seconds or less, let me just say that even in the United States of America, which many Australians sometimes, perhaps unfairly, dismiss as being impossible to turn around and which is globally thought of as the incarceration nation when it comes to the criminal justice system—even in the United States, you see Republicans and Democrats now working across the aisle and significantly committing themselves to reducing the prison population in the United States. There is an organisation you can google which is just called Law Enforcement Leaders to Reduce Crime and Incarceration where we literally see the former and current police chiefs in major American cities right across every state of the United States coming together to advocate the proposition that being smart on crime does not mean building more prisons. Their commitment is to reduce crime, as you would expect from law enforcement leaders, but it is also a powerful commitment to reducing the level of incarceration.

So I guess that is an overview of what we are about. This is not an organisation for tall poppies or some elite group. We want to see a movement for change happen in Australia that involves people right across this country from many, many diverse, different backgrounds and all parts of Australia, because we want to get that message to our parliamentarians: come together on this. Let us not have a war zone of party-political scrapping around these issues. No more law and order auctions—let us go for evidence-based policy that makes Victoria, and Australia, a better place. Thank you so much.

**The CHAIR:** Thank you, Robert. I feel like the gauntlet has been thrown. I certainly accept this challenge, and I really appreciate the people that you have pulled together and the common goals that you have been able to find from such a diverse range of people. I certainly think that we are seeing some of those themes already in the submissions that we are receiving—that we do need to be doing things differently. Prison is not and cannot be the be-all and end-all of our system.

Just in starting questions, I note two things. One is that we refuse bail because someone is homeless, but then we release them from prison directly into homelessness, which then has the perverse effect of probably escalating and speeding up their reoffending. Is there a way of embedding policies, or does it require legislation—can we embed policies, for example, around homelessness, or also embed the notion that prison should be a last resort?

**Dr SOTIRI:** I might go first if that is all right, and then I am sure Ian and Robert might have things to add. I think that a lot of the reform that we are looking to there is sort of a legislative framework for it, but for a lot of the policy work there does not need to be a legislative framework. There just needs to be an understanding of what the evidence says and what does actually work.

We have got a situation in Victoria but also in many other jurisdictions in Australia where there are some really great services providing really solid programs. The issue is that for most people who require, for instance, housing on release or access to mental health, access to drug and alcohol treatment, whether or not they end up having access to that program is often actually just a matter of luck. It is a matter of if they happen to be in a particular prison at a particular time that happened to be near a jurisdiction that had access to some programs, or there happened to be a bed that was available at that moment that they were coming out, or they happened to

have a friend who said, 'Hey, you should get in contact with VACRO, or have you heard about Flat Out, or have you heard about Djirra?'

There are a lot of services that are doing great work. None of them are funded adequately, firstly. None of them are systematically embedded into the system. If you are looking at that trajectory or that journey from prison to release, the vast majority of people both in Victoria and in New South Wales, where I am based, and most places in Australia literally walk out the prison door with nothing. They have sometimes a garbage bag full of their belongings. They maybe have half a Centrelink cheque to last them for a couple of weeks. They often are trying very hard to not go back to the lifestyle and to the people and to the community that they know were getting them into trouble in the first place, but again for all of us when we are lost and when we are trying to make change, most of us need some kind of support. So the vast majority of people that are coming out of prison into homelessness are not receiving that support. I guess that there are absolutely ways of embedding that support.

There are particular features of that support that are really important. We know a lot from the research into best practice and into what works what the qualities of that support need to look like. Prerelease engagement, for instance, is really important. Long-term support is incredibly important. We know that people with long histories of trauma, long histories of being managed in justice system settings rather than being supported in the community and that population need more than just three months of support, which is what a lot of programs are set up for. We know that we need services that can hold a great deal of complexity. Many people leaving prison end up not being able to access services because of the complexity of their need. So they cannot access a drug and alcohol service because their mental health condition is not managed, or they cannot access a group program because their literacy is not good enough. We need our programs to be resourced adequately so that people that are living with multiple forms of disadvantage that need really intensive wraparound support are able to be supported in that one setting rather than being referred from one place to another.

We are writing a submission where I outline what those kinds of features of best practice or good practice programs look like, but in terms of systemically what we need to happen, there needs to be a significant increase in the funding of services that exist in the community. They might be mental health services, they might be drug and alcohol services, they might be specifically post-release services. All of those services need their capacities increased so that they can adequately deal with the complexity of need of people coming out of prison.

**The CHAIR:** Thank you, Mindy. I will go to Kaushaliya.

**Ms VAGHELA:** Thanks, Chair. Thanks, Mindy, Robert and Ian, for the great work you do and for your time today in joining us. In your views jail is failing to reduce the prison numbers. But how do we reduce the prison numbers, because, Mindy, you mentioned that there is no magic fix? You also have experience working in Sydney. Is there anything that the Victorian justice system can learn from interstate and from other states?

**Dr SOTIRI:** Look, unfortunately there is not one state in Australia that is really sort of—perhaps the ACT in terms of raising the age of criminal responsibility and a couple of other sorts of legislative measures or policy measures in terms of trying to explore concepts of justice reinvestment a little bit more robustly. There is not a magic fix, but that is not to say that there are not many things that can be done, and each jurisdiction I think can learn from others. South Australia, for instance, has a significant number of beds that are specifically designated for people leaving prison, so their commitment on the part of corrections to ensuring or to trying to increase the likelihood of people leaving prison not being homeless is probably quite different to anywhere else in Australia. We can see amazing things happening in Victoria though. Look at work that places like VACRO and ACSO and Djirra and Flat Out are doing with this population. Although a lot of community sector organisations are not funded adequately to do really significant research, we note from internal evaluations and from the bits of research that do exist that they are making significant differences in terms of disrupting criminal justice system trajectories.

One of the things I can speak to—and it is not published yet, but I would be very happy to share it with the committee—is a significant evaluation of a service that I used to work for in New South Wales called the Community Restorative Centre. This evaluation or piece of research used BOCSAR—Bureau of Crime Statistics and Research—data in New South Wales to track the criminal justice system trajectories of close to 400 clients of CRC over more than a 10-year period. We were able to look at involvement with the justice

system in terms of police, courts and imprisonment prior to their engagement with the Community Restorative Centre—CRC—and then post engagement. We were then able to match that group with a comparison group held in the linked administrative dataset of UNSW. Now, CRC had funding to do this evaluation, but I have no doubt that for services that are running comparable programs to CRC, as happens in Victoria, we would see very similar outcomes.

What we saw using this data was a dramatic drop not just in imprisonment but in contact with the justice system. So you would see people, again, with the trajectory—sorry, I know that Hansard cannot see this. You would see a steep increase in terms of involvement or engagement with the justice system, you would see the intervention of CRC at a particular moment in time and then there would be close to a 70 per cent drop-off in terms of criminal justice system contact. Now, CRC only works with people who have complexity of need. They only work with people who are homeless, who have drug and alcohol problems, who have mental health conditions or who have cognitive impairments. To get onto the program you have to have a level of complexity. If we can see that drop-off with this incredibly complex group and a very robust methodology in terms of comparing that with a comparable group that did not have intervention, I think that we have got a really sound case for bolstering the kinds of organisations that are really focused on supporting people to actually thrive in the community. It is not about reducing offending, although that is part of the picture; the focus has to be, for that person leaving prison, on building a life in the community.

So we know that we need programs, and those programs could operate not just at the point of post release; they could operate at the point of precharge diversion with policing. They can and do operate in some places at the point of court. There are multiple moments in the justice system where we could engage to actually really build a different trajectory. We know what the ingredients are of the programs that work and we know the services that already have runs on the board in terms of doing it; we need resourcing and political will to get those going so that they are able to actually meet the demand. None of the services that currently operate come anywhere close to being able to meet the demand for their services.

**Mr TICKNER:** I wonder if I could chip in, and then I would like to bring in our dear colleague Ian Gray. I should have mentioned two other patrons are Jenny Macklin in Victoria and Ian Gray, who is a former Chief Magistrate in the Northern Territory and in Victoria and a former Victorian coroner. His participation is indicative of people who had this really deep experience with the system, and he can make a valuable contribution.

Let me just quickly say this, though: I think you would be astounded when you compare the funding for community-based organisations with proven track records of success in being able to support people around the kinds of issues that Mindy has identified as compared to the funding for prisons. Our community does not realise that it is in the order of \$130 000 a year for every single prisoner. You know, it is a staggering figure, and the truth of the matter is that most of the community-based organisations who really have the runs on the board and so many others who would like to do this work literally survive on the smell of an oily rag. So it does not matter what party you come from or if you are an Independent or what government is in power in different parts of Australia, the big shift that has got to happen is to have leadership from a government that is investing in the alternatives so that judges and magistrates really can go for the evidence-based alternative. And I think I would like to throw to Ian Gray, if I could, on that note.

**The CHAIR:** Ian, thank you.

**Mr GRAY:** Thank you, Chair, and thank you, Robert. That is right. The alternatives that need to be available to the courts I think are well understood. Community-based alternatives, programs where there are supports, linkages to supports and a group of measures will in so many cases lower the risk of reoffending both on bail and after release. Against the background of what Mindy has set out, this sort of programmatic approach with evidence-based successful programs is an absolute key to success.

Speaking about courts, it is 10 years since I worked in them, and I do not speak for them strictly today, but nonetheless I can say with confidence that magistrates and judges look for evidence-based alternatives. They want them. And if there is an alternative to imprisonment—and sometimes there is not, but when there is, and so often there is—then they want to be able to be confident that they can pass a sentence which relies on programs potentially, that they can grant bail which may rely upon links to programs and supports in the community as part of a bail program or bail order. They need to be confident those programs work. Some do—

some work brilliantly. The Magistrates Court here in Victoria, for example, has made an absolute priority of linking the services to people on bail through the bail support program, otherwise known as the CISP. You might hear about that, Madam Chair—I do not know—but I would certainly encourage you to speak to the court about that and about all of their programs. They have now elevated the whole area of problem-solving courts as a focus, but the programmatic-based approach to bail is so fundamental.

Remand numbers are exponential. They are really out of control. I am sure they are a big issue for your committee and many will speak about it, but the numbers are just extraordinary. Magistrates, I know for a fact, [Zoom dropout] judges too, will always look for bail support programs to reduce the need to remand people in prison, and those figures are just diabolical. So I would just say, reflecting back on the courts, that their commitment to programs and their need for those programs to be resourced is critical. And can I just finally say on that that the courts have a number of different programs. There is the Assessment and Referral Court, which focuses on mentally ill people—it is a sentencing court ultimately—there is the bail program and there are others. These sorts of programs need to be resourced so that they can be expanded across Victoria. They have all had great starts in specific locations and then a slow and gradual expansion to other locations. What is now needed on the back of the proven efficacy of these programs is an expansion of these sorts of things across Victoria. The judiciary would welcome it.

**The CHAIR:** Thanks, Ian. It should not matter where you live in this state or—as you were saying, Mindy—what prison you happen to be sent to. Tania.

**Ms MAXWELL:** Thank you, Chair. Thank you, Robert, Ian and Mindy, for joining us today. Ian, you just touched on part of the question that I wanted to ask. In rural and regional Victoria we often do not have the opportunities to actually divert people out of the justice system with adequate resources. Now, there are many reasons for that. We find that particularly not-for-profit organisations who often work with young people in youth justice or even adults are only funded to work with somebody, a client or consumer, for a certain period of time. As you would know, having been a judge, those ingrained and entrenched behaviours in that young person can take well more than six weeks to address to support them to prevent that recidivism, so I would like you to give us a little bit more feedback on that. But the other thing is, for judges and magistrates, what would make it easier for them to be able to refer? Do we actually need an organisation that specifically works directly with the courts who then can do the assessment of that young person or whoever it may be, their needs, and then have that triage almost and refer them and walk them through the process of engaging with those specific organisations that can help them? One of those would be drug and alcohol. Part of the problem here is that to reduce the likelihood of recidivism they have to be able to get into those programs immediately, and we are not funded. We do not have enough rehabilitation centres et cetera to be able to prevent that person from reoffending again.

**Mr GRAY:** Yes, that is right, and I would say about that that, yes, postcode justice—we have had far too much of it historically probably across Australia. It is inevitable when things begin—programs will have to start in a place and be piloted. We know that; that is fine. Get the evidence base and then roll it out. But rolling out is the question—resourcing for the rollouts of the proven programs. That is what needs to be done. That over time eliminates postcode justice, and country people, to whom you are addressing the point, really have been historically disadvantaged. Increasingly in Victoria the regional headquarter courts of the Magistrates Court, as they are called, have progressively been able to take on the programs that emanated from Melbourne. Koori Courts are a very good example, and that is an obvious example—it is obvious why that should be the case for Aboriginal offenders across Victoria. Some of the other programs have rolled out to a couple or more of the major regional courts—Ballarat, Bendigo—but not [Zoom dropout]. So it is the rollout.

Now, the proven programs are [Zoom dropout] current bail program, but you would need to check with the court on this. The current bail program, as I understand it and recall it, is extremely successful at making the [Zoom dropout] funded and ongoing for the people that are on them. So the court acts as the intersection, the referral pathway, into the program—success, and then that will influence the ultimate outcome in the case. That is one program. That needs to be expanded across Victoria. That is in a sense a simple but I think quite potent example of what you are getting at—that is, the inadequacy of services, city compared to country. And the courts have in our experience—magistrates, county in particular—great experience in developing programs to enable the judicial officer to direct people by way of diversion into a program in the right direction. There are many programs. There is a very well-established court diversionary program in the Magistrates Court that is available across the state—the criminal justice diversion program, very well used by magistrates and very

successful, I think, over time. It is not a sentence as such; it is an alternative. That is one. Then there is bail diversion, and then there is the assessment and referral court. That is a great model which has a highly therapeutic dimension to it. It has been recommended for expansion by the Victorian royal commission into mental health. So that royal commission made a specific recommendation about that particular court in the Magistrates Court [Zoom dropout] that it be rolled out, such is its proven success. So I think the answer is rolling the proven ones out, and there are some models that are currently working now. The court has structured itself to give a significant amount of emphasis to this part of its work over time.

**The CHAIR:** Terrific. Great.

**Mr GRAY:** I hope that answers your question.

**The CHAIR:** Thank you. I think it just reaffirms a lot of what you had said earlier as well. Harriet.

**Ms SHING:** Thank you, Chair. My apologies for joining you slightly late—I had an earlier commitment—but I did in fact listen very carefully to what you had to say in particular, Robert. I am interested in—and this is a curve ball—where jailing is failing. Where does the carceral system have an opportunity to improve in the provision of support and wraparound care and services for inmates prior to release and the bang for the buck that you get as far as reducing recidivism, re-establishing connection, particularly in the intersectional space with those very, very complex presentations for those who have been convicted and are spending time in jail? Where does that fit into the work associated with broader reduction of recidivism over time? It strikes me that we have so many cases of sentences being effected involving periods of imprisonment without in fact services being provided while people are actually in the system, and again it is that point prior to release where I think there is an opportunity to become involved such that jailing, where it will in fact need to occur and will continue to occur, can better serve those who are serving, if you like.

**Dr SOTIRI:** I am happy to answer that. I think it is critical what happens to people when they are in prison. I guess the starting point for thinking about it has to be that obviously wherever possible if people can receive supports in the community, that is ideal. If people do end up in prison, then absolutely there should be the same access to programs in prison and supports in prison, especially in terms of health conditions and especially in terms of access to drug and alcohol treatment, that people are able to find in the community. The period prior to release is absolutely critical, and a lot of the research into, again, disrupting criminal justice system trajectories bears this out. We know that people at the end of their sentences are often quite hopeful and quite optimistic about what their lives might look like when they come out of prison. We know that people are also very stressed, and if they have experienced many times in and out of prison, then it is a time of high anxiety. People have gate fever—they are very, very worried about what life is going to look like, especially if they are very keen for it to look different to what was the last time or the last many times they have been into prison.

The supports that exist there should be from the community going into the prison to provide them. We should not be relying on Corrections. I mean, we need to rely on Corrections to facilitate access to programs, but we know the challenges, and prison reformers for centuries have been saying, ‘Look, there are problems trying to train people for freedom whilst holding them captive’, so we know that it is not an ideal place to be kind of practising what it is like living in the community. But what we know is that those programs that have a worker that goes into the prison and works with somebody, say, for three to six months, and sometimes even longer if they have been in for a long time, prior to their release and then that same worker—because it is not actually about the organisation for people inside, and again, there is a lot of research around that; it is about a connection with an actual human who is going to be in their corner.

If that same worker that has been going to visit somebody in prison is there on the day of release, which is a critical time in terms of make or break—what happens to somebody in that first 24 hours and then that first three weeks—we know that is going to really make a huge difference in terms of somebody’s post-release success or their capacity to stay outside. It has been an area that I have worked in for the last 25 years. I cannot emphasise enough the difference that that prerelease engagement makes but also the quality of that engagement. It has to be relational. The worker has to genuinely care, even though that sounds very sort of bleeding heart. We know, again—in the research it is very clear—that if that worker does not care or if it is only a six-week program or if it is not humanising, then it is not going to have the same impact as somebody working with that person around what it is that they want their lives to look like post release.

**Ms SHING:** There are chaplaincy services and those sorts of pastoral care arrangements which exist in, I think, an ad hoc way across the system. But what you are talking about to me sounds like a relationship-based approach which has direct connection into and as part of services and a demystifying of the system to access support and care once you do get through that front gate and then follow-through beyond simply parole conditions that might apply to ensure that someone has an opportunity to capitalise on that optimism that perhaps they may have built up prior to release. Is that a fair kind of comment?

**Dr SOTIRI:** Yes, absolutely. I think just to add to that, often what happens in that prerelease kind of connection is that you start to get to know somebody, so you will know if somebody's got an aunty somewhere that they are close to that they would like to reconnect with. You can talk to people about their children. You can talk to them about their identity outside of the justice system, and again I cannot emphasise enough how important that part of the puzzle is because people that have spent many years there have an identity often that is as a crim or as an offender or as an inmate or just as a number—to have somebody from the outside that is bothering to turn up, that is working for an organisation that is resourced to allow their worker to do so, because sometimes it can take a whole day just visiting one person in custody. So it is part of a sort of bigger systemic issue where we need organisations to be funded adequately so that workers can have low case loads, so the intensity of the work that is required can be delivered and so that that person—it is not creating dependency, it is just actually trying to stop people being set up for failure. Because that same person without work is walking out—often, as I said earlier—with absolutely nothing. It is remarkable to me that so many people manage to stay out of prison given the circumstances in which so many people are released. So yes, having that support pre release and having somebody there that is trusted post release is really critical.

**Ms SHING:** Thank you.

**The CHAIR:** Thank you. Sheena.

**Ms WATT:** Hello. I was so much listening to that answer. Thank you very much, Mindy, Ian and Robert. I have certainly taken quite a number of notes since you started. I just have a question about victims of crime. We have heard you say that jails actually fail victims of crime, so I just wonder if you can explain what you mean by that. And what do you think that victims want out of the justice system, and what is the best way to deliver that, really? I am just interested in that whole space. I am not sure who that is best directed to.

**Dr SOTIRI:** Yes. It is a really important question. Robert, did you want to answer? I am happy to talk to this as well.

**Mr TICKNER:** No, you go, Mindy, because we have discussed this this morning. We know where we are going.

**Dr SOTIRI:** Yes. The voices of victims of crime have to be part of this conversation. I think there are a couple of things that we need to have as a starting point. First is that we already know that a lot of victims in the current system feel that their experiences are not properly legitimised, are not properly understood, and that with the adversarial system a lot of victims do not feel that the personal experience that they have had is kind of properly captured through those processes. A lot of victims also really note that what they want is for what happened to them to not happen to anybody else. So when we talk about jails failing victims of crime, that is really what we are talking about in terms of the failure of prisons actually to make the community a safer place. We know jailing is failing in terms of its rehabilitative capacities. It has always failed in terms of its capacity for rehabilitation.

I guess the other thing to note there is that the idea that victims and offenders exist in two neat, separate categories probably needs to be a little bit disrupted when we are talking about victims of crime. We know, for instance, that the vast majority of women who are in prison are themselves victims of crime. So the way that we think about it and the way that we think about the rights of both of those groups is often as if they exist in opposition. I guess that a really important frame for thinking about this is that of course victims rights have to be part of this conversation, but that does not mean that we want to mess around with anybody else's rights. Our rights do not exist in opposition.

The other thing that I guess is important is that there are obviously very well established approaches to justice in terms of restorative justice, in terms of transformative justice and different kinds of sentencing techniques where victims' voices and families of victims are heard in a different way, where people come together around

the harm that has been created and together sort of work on what should happen as a consequence of this. I think the critical thing is that regardless of what system we have or what we are thinking should happen to people that have committed crime the victims want a level of accountability. Whether or not that accountability has to be a prison sentence is something that I think we really do need to think very carefully about given what we know about the capacity or lack of capacity of imprisonment to actually assist people in taking responsibility for what they have done.

So it is a complex space, but I think there is some really important work that has happened and that is happening in terms of different approaches to ensuring that victims' voices are heard and that what they have experienced is really taken into account when we are talking about how to repair harm or how to repair the damage that has happened from the crime. I guess that I also would note that we are very keen—the Justice Reform Initiative is very keen—for victims' voices to be part of these kinds of conversations, and I think that often it is not quite as disparate or oppositional as what is often reported by the sensationalists of the media. Robert, I am not sure if you have got anything you wanted to add to that?

**Mr TICKNER:** Just to add a couple of things, if I could, because I agree with everything that Mindy has said. I really want to assure you that the Justice Reform Initiative absolutely understands the importance of victims of crime and their families being part of this conversation. We are very proud—in fact more than proud; we are deeply moved by the fact that one of our patrons in New South Wales is Ken Marslew, who is a most extraordinary human being. Sadly, his son lost his life in an armed robbery, and Ken has devoted much of his life now to his son Michael's memory. The essence of his work is to recognise that we need to do better in looking after victims of crime and their families, but perhaps equally fundamentally he is one of the leading people who is pushing to have addressed the underlying issues to ask the question: how did a young offender get into so much trouble? And all of the things that we have been talking about this morning are issues that Ken joins with us in saying that we need to address.

This is not some partisan comment, this is something that—whether you are a mum, a dad, a sister or a brother—anybody who has been involved in any way at all in the criminal justice system needs to understand, that we need to address some of these underlying issues. And I must say, if you do not mind me saying, I was heartened by Tania Maxwell's media release on 14 April as a member of Parliament saying that we need to be serious about taking up the challenges around these issues, and that means properly resourcing support resources, including mental health, so that people can rehabilitate when released and get back to their families and get a job. These are middle-of-the-road, commonsense sentiments that ought to be playing out all day, every day in public policy. I mean, if 50 per cent of students at schools were failing, well, we would have a total rethink of our entire education system. But the fact is that 50 per cent of prisoners are just going around and around. And when you look at the coterie of people that are caught up in this, if I can give you the New South Wales example—but I am sure it is not significantly different in Victoria—the New South Wales commissioner for corrective services has estimated that 70 per cent of the people in New South Wales prisons are functionally illiterate. And I bet it is the same in Victoria. So I just want to reinforce not only the comments about victims of crime but that victims of crime I think increasingly are understanding that we want more out of the criminal justice system than simply taking an offender and putting them in jail, because the fact of the matter is jail is going to exacerbate the problem, not fix it. And that is why evidence-based policy is so important.

**The CHAIR:** That is a perfect note to bring the session to a close. I am afraid we have run out of time. Thank you all for the great work that you are doing but also for giving your time to us today. We very much appreciate it. As I said at the outset, you will receive a transcript of today's hearing. Please have a look and make sure that we have not misrepresented you. I look forward to your submission, and certainly I think the questions and issues that you have raised today are foremost in our minds in hopefully solving some of them and making those recommendations in our final report. Thank you, everyone.

**Witnesses withdrew.**