

## ***Children of offenders***

This transcript was typed from a recording of the program. The ABC cannot guarantee its complete accuracy because of the possibility of mishearing and occasional difficulty in identifying speakers.

**Anita Barraud:** Today we look at how the criminal justice system deals with hidden victims of crime, children of offenders.

What happens to the kids when the cops knock on the door at arrest Dad? Who holds the baby when Mum's in the dock?

Who cares for children when parents are in prison?

And a warning, there's some strong language.

**Child:** I heard a bang on the door and it woke me up. Policemen ran upstairs with dogs. My brother had a bleeding nose, then they all went downstairs and took Dad away.

**Woman:** I came home from school and there was a knock at the door; unbeknownst to me they were six Federal Police officers. Mum wasn't in the house, and they read out the warrant to search the premises.

**Girl :** Me sisters and I waited at the cop station in a room. It was very late. A copper gave us a glass of water. We slept on the floor till Mum was finished.

**Anita Barraud:** In any given year, almost 40,000 Australian children have a parent in jail.

Yet at no stage of the justice system is there policy or procedure on how to deal with the children of criminals or alleged offenders. Psychologist Terry Hannon is senior researcher at the Victorian Association for the Care and Resettlement of Offenders.

She's written a report: 'Children: Unintended Victims of Legal Process', that takes a long, hard look at how children of offenders are treated during each stage of criminal proceedings in Victoria.

**Terry Hannon:** Well currently in Victoria and in the rest of Australia actually, there are no protocols for police officers attending an arrest where children will be present.

**Anita Barraud:** What happens if a parent is arrested while the children are at school or at kinder or they're out of the house. What's the procedure in dealing with the children once that parent's arrested?

**Terry Hannon:** Well this is actually the favoured strategy of a lot of police officers, with the belief that it minimises the impact on children. However again, there are no protocols or policies guiding police actions, and the reality is that many children find themselves coming home from school to houses where the parents have been

removed. Quite often the houses have been very thoroughly searched, and the evidence of that is still in place. Other children find themselves waiting at school gates, and there's no-one to come and pick them up.

**Anita Barraud:** I guess a parent is allowed a phone call; is there an extra phone call allowed?

**Terry Hannon:** Look, yes, again, people are given phone calls, and again it's about consistency of response. Some mothers relayed to me that police officers were extremely helpful in facilitating their making contact with someone that could organise care for the children, but other police officers weren't, and it brings in a few complicating factors, the idea of the phone call. Women are under a lot of pressure in that situation and phone calls tend to be dedicated to solicitors, they need someone to defend them or advise them immediately. But a lot of women actually have nobody to phone. They have had very chaotic lives, there's been a breakdown in family relations, they're often single parents, and there's often been a lot of moving in their history so they haven't had strong relationships with the neighbours or the community, so there's no-one to call. And then another complicating factor is they're all on the whole, very frightened of DHS intervention.

**Anita Barraud:** Department of Human Services.

**Terry Hannon:** And it's the child protective arm that they're very concerned about. So often they won't make that kind of phone call in the official presence of the police because they're worried about the outcome of further involvement.

**Anita Barraud:** Have there been cases where children have been left at school?

**Terry Hannon:** Certainly there have, or left. More often in the research I did, children were actually left. Earlier the situation that motivated me to begin the research in the first place was around a woman I met with a 4 and 6 year old who were abandoned at school, and it was only the return of a teacher that brought them to anybody's authority or any adult kind of concern. The woman can be arrested, find herself charged in the police station. It often occurs on a Friday night or a Saturday night, she'll be then held in the police cells over until the following Monday, appear in front of a Magistrate, and be remanded to prison. At no time in that process will she have had an opportunity to plan for where her children will go. The children are very often not given an opportunity to have contact with their mother while that process is happening, and although magistrates individually exercise quite a range of responses from very compassionate responses, again because it's not in policy or guideline, or in legislation around the Bail Act, there's no consistency around that, and you get a continuum of responses, and some of them are very harsh, and there is no instructions to a Magistrate to acknowledge children in the process.

**Anita Barraud:** Terry Hannon spoke to 15 mothers who were either in jail, or recently released. She interviewed police officers, judges, barristers, and carers. All said the approach to dealing with children of offenders was at best, ad hoc.

While many police handled the situation with care and sensitivity, there were occasions when officers inadvertently broke the law.

**Terry Hannon:** Two things can happen. Either the children can accompany the mother and the police officer back to the police station, or children are either just not there, or quite often children will be redirected to a neighbour's place, or the police will facilitate dropping the child off at some other adult's place.

**Reader:** On other occasions he's been dumped at people's places by police when they've said to me, 'Well you'd better tell us what to do with him, or we'll take him to DHS', and they've dropped him at a known drug dealer's house. They just dumped him there, they didn't give a fuck, didn't even go in to see if anyone was there. He was about 11 years old, and they said I would get bail and be home in a few hours. Six months later I got back.

**Anita Barraud:** So is there any investigation to the suitability of temporary carers such as the neighbours or the relatives or friends who are suddenly asked to take care of the children, or child?

**Terry Hannon:** At this stage, no, there's none whatsoever, and there's no protocol directing a police officer to make any kind of checks on the person that a child is being left with.

**Reader:** In regards to a 15-year-old child left without a carer at the time of the arrest, I actually went out to the offender's house to knock on the door to find out if she lived there. And she was actually out the front at the time. So I grabbed her out the front, and off we went. I don't know whether the daughter was home or not, I never actually went into the house.

**Terry Hannon:** They said they were aware that the lady had a child, they'd had quite a lot of contact with the woman previously. However, no-one went in and notified the child that the mother had been removed, and it wasn't until a barrister contacted her some time later and was able to tell her where her mother was.

**Anita Barraud:** This would seem to me to be flouting basic laws about protecting children.

**Terry Hannon:** Yes it is, it's in contravention to aspects of the Children and Young Person's Act, specifically around abandonment and neglect.

**Anita Barraud:** In one case, I understand police arrested a single mother in a rural community, and she'd only been there for a few months. She ended up having to leave her children with the next door neighbour whom she'd never met.

**Terry Hannon:** Yes, that's right. As she was going out to the police car, she asked the police 'What about my children?' and they told her to go and knock on the neighbour's door, which she did. And the neighbour complied and took the children. However, she didn't know the neighbour, and her concern at the time also was the fact that she didn't know how long she was going to be held for, and neither did the neighbour, and the police weren't able to give a firm answer about how long the neighbour would be holding those children for.

**Anita Barraud:** And how long was she held for?

**Terry Hannon:** I think she was released very late that night. She said it was around the 18 hour mark that she'd been held for. So that was actually quite good.

**Anita Barraud:** From your reading of the police manual, I think the latest edition was published in 2003; are there any guidelines that outline what to do during an arrest or interview or charging process where the alleged criminal has children?

**Terry Hannon:** There is no mention of children whatsoever in the latest police - it's called the Victorian Police Manual, it's the operating manual that police officers use to guide their actions. There is no reference to these children whatsoever. They are not acknowledged as being part of police responsibility.

**Anita Barraud:** Terry Hannon, and readings from interviews contained in her damning report 'Children: Unintended Victims of Legal Process'.

Sometimes alleged offenders are violent, but there are no set procedures for police to follow when children are present.

**News Reader:**... was shot in the neck in an upstairs ...

**News Reader:** Police say there was a confrontation, and a number of shots were fired.

**News Reader:** But when police responding to a domestic dispute shot dead a father of two in Central Victoria ...

**Woman:** They were being asked to put it down; somebody was being screamed at to 'put it down, put it down mate'; I assume that was the police saying it. Then there was a third gunshot while I was on the phone to 000.

**Anita Barraud:** That fatal shooting in Shepparton in Victoria in 2005 was investigated by the State's Office of Police Integrity. The OPI's report noted the trauma suffered by a 4-year-old boy and his 2-year-old brother, who witnessed the police shooting their father.

The OPI recommended the Department of Human Services and the Victoria Police establish an operational protocol for dealing with children of offenders.

Two years later, no protocol is in place.

The Law Report contacted the Victoria Police, a spokeswoman from the Media Unit. We were told it was mandatory to report to the Child Protection Service if there was a suspicion a child was at risk.

The police also have a Victims Support Department, which could offer services to children who witness their parents' arrest. But there are no systems in place dealing with children of offenders.

The Victorian Attorney-General wouldn't comment on the issue, and the Police Minister didn't return calls.

**Child:** I kept asking Mum when she was coming home; she says she's innocent.

**Child:** We weren't allowed to go to the court. Mum would go and she would tell us, come home and tell us what happened.

**Child:** For maybe more than a year, she's in remand. Mum just told me it would be seven years before she came home.

**Child:** ... on her mind, it was the hardest bit, because we didn't now what was going to happen, or where we stood.

**Anita Barraud:** The lack of procedure carries right through the criminal system, from arrest to punishment.

With 35 children between them, the 15 mothers interviewed in Terry Hannon's report had sentences ranging from 3 months to 18 years. All claimed this lack had a serious impact on their own rehabilitation and on the welfare of their children.

**Terry Hannon:** The children were, without exception, quite traumatised by the whole process, whether they'd been present at the arrest or whether they'd been at school at the time. Some of them went to family carers; some of them went to Department foster carers, others were literally abandoned and ended up fending for themselves, two with the support of a grandmother, but another two children ended up on the street.

**Anita Barraud:** And how old were those children?

**Terry Hannon:** The ones that ended up on the street were 15 years old.

**Anita Barraud:** You had a case where an interim carer actually abandoned the children.

**Terry Hannon:** Yes, one woman had left her four children with her current boyfriend at the time, and half-way through her prison sentence, he left; he didn't notify her and he didn't notify any other adult. And I think it was she had either a 12 or a 14 year old son who ended up caring for his much younger siblings.

**Anita Barraud:** After reading Terry Hannon's findings, former Chief Justice of the Family Court, Alistair Nicholson, was forced into some uncomfortable reflections on his past years on the bench.

**Alistair Nicholson:** The fact is that it's an area that tends to be, I think in the past it's certainly been not given any proper attention by anyone. My time at the Family Court has taken me a bit out of the criminal system, but I was before I became Chief Justice at the Family Court, I was Chair of the Victorian Parole Board, and of course I'm going back to 1988 now, but then, this concept was something that was almost completely foreign to us, both in the Parole Board and sitting as a judge in the Supreme Court as I was. The issue of what happened to the children did worry you sometimes, but it was never the sort of thing that was high on your agenda. And that's why I was - I thought afterwards it should have been.

**Anita Barraud:** Do you know of any sort of legislation or any kind of framework that deals with children of offenders?

**Alistair Nicholson:** No, I don't. In fairness I'd have to say that in those days we did, if you had someone who did have young children, it was a relevant factor to you in the sentencing processes, the fact they had that responsibility and so on, and that that would temper perhaps a length of sentence, or even whether you imposed a sentence of imprisonment at all. But apart from that, I don't think it went any further than that.

**Anita Barraud:** You interviewed quite a number of judges, ranging from Supreme Court judges to magistrates. There was a mixed response from the judges, wasn't there?

**Terry Hannon:** To a degree there was a mixed response. Some of them are very firmly by the law and by the book, particularly of course in the higher courts where they are constrained to be, and the law doesn't actually give them much room to move. In fact the higher courts specifically instruct judges not to take the circumstances of affected family into consideration when sentencing.

**Anita Barraud:** Although that's the case in ACT I believe.

**Terry Hannon:** Well yes. There has been reforms to the Sentencing Act in the ACT and they now are specifically instructed to take the impact on family, particularly children, into consideration.

**Anita Barraud:** Terry Hannon.

So far in this program we've concentrated on Victoria, but the situation is more or less the same in every State and Territory.

The ACT, as you heard, makes a reference to dealing with children in pre-sentencing, but there's no protocol at any other stage of the criminal justice system. And despite numerous reports, discussion papers and suggested strategies, no other State or Territory has implemented any procedure dealing with children of offenders.

In 2005 South Australia produced a 'Children of Prisoners Project' for the Attorney-General. Its comprehensive Action Plan included strategies to consider the safety and wellbeing of children of offenders during the criminal and judicial process.

The Office of Corrections says \$25,000 has been committed to develop new approaches, including a 3-month pilot data collection project into care arrangements for children of prisoners, improvements to visiting parents in jail, and a parenting handbook.

But there's no mention of protocols to consider children during all stages of the criminal justice system, a key 'suggested strategy' in that report.

Ten years ago in New South Wales, a major report suggested children of incarcerated parents were marginalised, at risk of mental illness, more likely to offend, and were often not acknowledged by governing bodies.

Kirsty deVallance was a teenager in New South Wales and still in her school uniform when six Federal Police turned up at her home.

**Kirsty deVallance:** When I was 16 I was in Year 11, and came home from school and there was a knock at the door, and I opened the door and there were six Federal Police officers, and at that point I thought Mum and Dad haven't paid a bill for Walton's at the time, and I thought they'd come to repossess our fridge. So I let them in and they sat me down on the lounge, and they read out the warrant to search the premises.

**Anita Barraud:** So your Dad wasn't there?

**Kirsty deVallance:** No, we found out later on he was actually being arrested at the same time, so it was quite a big sting operation where they were arresting a whole syndicate of people involved in the drug smuggling ring.

**Anita Barraud:** And these Federal Police read out a warrant to you, a young teenager?

**Kirsty deVallance:** They did. Looking back it was 15 years ago now, I've been trying to remember everything from piece to piece; it ends up being like an old movie. And I do remember my grandfather was in the room with me at the time, but unfortunately he was suffering from Alzheimer's. So yes, they read it out, and it was quite confronting. They searched for four hours. At the time my Mum came home at that point, and they went through every single room, and again it was so overwhelming.

**Anita Barraud:** Did they search our room?

**Kirsty deVallance:** They did indeed. It wasn't like in the movies where they turn everything over and the place is a mess, but it was just so bizarre to have people touching your own things, and especially as a teenager, you're very private.

**Anita Barraud:** So what impact did that experience have on you?

**Kirsty deVallance:** Look it was absolutely humiliating. The one saving grace for me is that I was a really popular kid at school, so I had an amazing support from the school community. The whole 24 to 48 hours afterwards was a whirlwind. It was big news, so just having to cope with the world knowing that it was our Dad, was unbelievable, just absolutely humiliating and terrifying.

**Anita Barraud:** Your mother was alive at that time, but she died not long after, didn't she?

**Kirsty deVallance:** That's correct. Dad was arrested in the March of '87. He ended up having a heart attack in prison in January, and myself and my Mum went down the next day to visit him. After our visit Mum had an asthma attack and a heart attack at the same time, and sadly passed away there and then. So again, still as a 16-year-old I had to then go back to the hospital and identify her body, then go back inside and tell my Dad.

**Anita Barraud:** Was that related, do you think, to the stress of the whole situation?

**Kirsty deVallance:** Look, without a doubt. I mean financially we were in a lot of trouble, we had our car repossessed, so it was extremely tough. I always look back now and think as a 16-year-old I should have probably been into clothes and fashion and that kind of thing, but I was working at a takeaway food outlet and coming home and helping pay the bills.

**Anita Barraud:** You were then left without a father, a father in jail, and without a mother; what happened to you then?

**Kirsty deVallance:** My sister, who - she was actually attending Uni at the time, we just basically stuck in together and I did my HSC with the support of my sister.

**Anita Barraud:** Kirsty deVallance is now a successful businesswoman.

Conservative figures say 5% of children under 16 have a parent in jail at some point in their lives.

Nationally there are about 38,500 children with a parent in jail any given year.

And the problem is growing, because of a trend to send more women to jail. According to the last comprehensive breakdown from the Australian Bureau of Statistics, the number of women in prison increased 58% between 1995 and 2005 and 2002. Those women were also generally serving longer sentences. The majority of their crimes were drug related.

Gloria Larman is the CEO of Shine for Kids, based in Sydney. It's an organisation that helps children whose parents are in jail and in post release. She's very conscious of the lack of consideration given to children of offenders from arrest through to jail.

**Gloria Larman:** I mean you hear lots of anecdotal stuff where the kids have got nowhere to go and there's no-one to care for them. I was actually at a meeting yesterday in a regional area and I heard over and over again, there was nobody to care for these kids, and nobody would actually take responsibility for them at 2 o'clock in the morning, when the police actually had to remove the parent. So there's lots of gaps I think in the system. The other things that we've heard are things like dogs being shot, the family pet being shot because they're in the way, or they're aggressive, or whatever. And these are the stories that the kids tell us.

**Anita Barraud:** What's the impact on children who are party to their parent's arrest and incarceration?

**Gloria Larman:** It would depend on what the relationship is like between the parent and their child. So if it's a good strong relationship that the child will certainly grieve for their parent; they will go into separation anxiety state. Quite often we've known kids who have gone backwards in terms of their own development, like they'll even regress to a number of a couple of years. Some will start wetting the bed again; they will act out aggressive, or they'll withdraw. I mean it has quite severe emotional and behavioural consequences for kids, removing a parent.

**Child:** A policeman came and took Mum away. The next day I went to visit her at this place. She was in a kind of box. Men wouldn't let me in the box. I was upset. That made Mum upset. I could see her through the window; it had a wire on it, but I could see her kicking the door and screaming. I wanted to hug Mum, but I couldn't, they wouldn't let me, they just said No.

**Girl:** I didn't know what had happened, or where they were. I didn't see them, my kids for about a month and a half. I was just shattered, upset. They'd never left me before in their entire lives, so for that to happen it was just, yes.

**Girl:** I told everyone Mum was living overseas in Mexico, but then the story was in the papers, and I copped shit.

**Gloria Larman:** And for older kids there are so many variants, depending on the age of the child, the relationship with the parent. But if that relationship was positive, I mean we've known like adolescents where you think Well OK, that's not such an important age in terms of the bonding and attachment, that's already there. But kids that would totally go off the rails, you know, they're harder to care for, they're harder to place if they needed to be placed in foster care, and they just don't fit any more. At the time when they're questioning their own morals and values, and belief systems, to lose a parent at that time is a critical stage for adolescent kids.

**Anita Barraud:** Could that lead to say a suspicion about authority figures?

**Gloria Larman:** It does. They certainly have that lack of trust of authority figures, and certainly with the police being a major target for kids, because they're the ones that they see take their parents away and they're the ones they blame. So you've got to try and break that barrier down for the kids, because they need to be able to trust authority figures.

**Anita Barraud:** I suppose too the authority figure of their parents is also tested in this kind of situation?

**Gloria Larman:** Yes. At the end of the day kids love their parents, regardless quite often of what they've done. They'll certainly question why their parents have done it, so it's quite difficult for kids to work a lot of those issues out, especially if they've got to work them out by themselves. I mean the whole family unit is torn apart.

**Anita Barraud:** You've described the effect of imprisonment of parents as a kind of shadow punishment for the kids, that the kids are effectively sentenced too.

**Gloria Larman:** Yes, they are. It's that invisible punishment. They're the invisible victims of crime.

**Anita Barraud:** Gloria Larman, from Shine for Kids in New South Wales. Babies and small children are usually able to stay with their mothers in jail. This can have a negative impact on older children who are separated from both mother and siblings, and often end up in a cycle of temporary houses.

Kirsty deVallance understands the complex and confused feelings many children experience when their parents are arrested and jailed.

**Kirsty deVallance:** I think the main thing is anger, and also toughness. You know, they've got this tough exterior which I know I had; I had a sort of a façade to stop anyone 'No-one's going to hurt me' sort of attitude. And at the moment I'm mentoring a 14-year-old girl and we've been having this mentoring program for about 18 months now. I've just seen this amazing transformation of this angry young girl to a young girl who can see a future for herself, who told me last week that she's going to try really hard for Year 10, because she can see herself that she'd like to get a career at the end of it, so I feel that I've made a really big difference to someone's life, and I think that's been a fantastic thing for both her and myself.

**Anita Barraud:** Kirsty deVallance, who now volunteers for Shine for Kids.

In Queensland, a report suggested 50 key reforms including procedures for dealing with children of offenders. It also raised concerns about reports of searching of children and babies in jail, including strip searches, a contravention of both State and Federal laws. And like all the reports from all the States in Australia over the past ten years, it found major gaps in policy, protocol and legislation.

Former Chief Justice Alistair Nicholson says it's a serious human rights issue and immediate action is needed to put in place proper legislative frameworks and procedures.

**Alistair Nicholson:** I mean Australia's one of the signatories to the UN Declaration of the Rights of the Child and in fact we were instrumental, one of the nations that were instrumental in drafting it. Unfortunately, we've never put it into legislative force, although we've ratified it. But it does have significance in Australia. And that contains a number of provisions in relation to children and the need to know and have relationships with their parents. And there are all sorts of provisions which if they were taken into account, we would not have this situation that we're discussing now.

**Anita Barraud:** In fact it states that children should be protected during any judicial or court proceeding.

**Alistair Nicholson:** Yes, indeed. And that's clearly not what's happening at the moment, and in fact as I've said, one of the pities about that convention is that Australia's never actually given it legislative force, because if it did, the governments would be forced to take these - and courts and others - would be forced to take these matters into account.

**Anita Barraud:** Terry Hannon's report 'Children: Unintended Victims of Legal Process' has now been used to form an Action Plan. Victorian Commissioner for Children, Bernie Giery, has agreed to ensure relevant members of the government receive the report over the next week. He says he's committed to making sure it is urgently considered.

Terry Hannon.

**Terry Hannon:** I think we need very strong guidelines in the police manuals, the operational manuals around how police respond. I think we need a great deal of training for police officer around what happens with children and appropriate ways to respond to children in these distressful circumstances. But more than that I think we also need protocols between departments, for instance between the court and bail registrars and bail magistrates; we need processes and protocols in the courts where people are notified if a parent has been removed through the result of a custodial sentence. The court needs to be able to notify prisons, and in fact schools also need to be notified, because the impact on the education of a child and the school itself can be huge. And unfortunately, these partnerships and protocols need to also extend into the post-release phase, where women and mothers and primary father cares need an extraordinary amount of support to reintegrate into the community. Or in fact to join a community they may never have been part of in the first place.

**Anita Barraud:** Psychologist Terry Hannon, a senior researcher with VACRO, and author of the report into children of offenders.

The report and its Action Plan will also be passed onto the Victorian Law Reform Commission. Time will tell whether this latest report will languish like so many others across the country. We'll be checking on developments.

That's the program for the moment. Thanks to producer Kyla Brettle and technical producer Martin Lawrence. And also to readers Lyn, Anne, Garry, Richard, Becky, Alisha and Christy.

## **Guests**

**Terry Hannon,**  
Psychologist and Senior Researcher, VACRO

**Alistair Nicholson,**  
Former Chief Justice of the Family Court

**Kirsty de Vallance,**  
Businesswoman and (now adult) child of a former offender

**Gloria Larman,**  
CEO, Shine for Kids