



CAUGHT OUT: WHAT NOW?

A guide for the family and friends of adults
in the criminal justice system

Understanding the Victorian criminal justice system

Arrest

When someone is arrested, and if they are required to remain in custody, they may be held in a number of places, including:

- a 'holding cell' at a local police station.
- the Melbourne Custody Centre.
- the Melbourne Assessment Prison – for men.
- the Dame Phyllis Frost Centre – for women.

You can contact Corrections Victoria for more information on (03) 8684 6600.

It is vital that you attend to your own emotional needs at this point.

You can talk to a family worker at VACRO for support, information and referrals

The arrest of a family member, partner or friend can leave you shocked and confused. Arrests are often sudden, unexpected and may be carried out with force. Witnessing an arrest can make you feel helpless, since there is nothing you can do to stop it happening.

There are a number of common responses you may experience when someone close to you is arrested:

- It may be hard to believe that the person you know could have committed a crime
- You may be angry at the defendant or the police
- You may be extremely worried about the defendant and lonely without them
- You might be worried about what neighbours, friends or relatives will think once they learn of the arrest. Sometimes, arrests bring media attention that exposes the accused person and invades your privacy at the same time.

This experience can be deeply traumatic for children of all ages. They may also have been searched or questioned.

Please refer to the *VACRO Children of Prisoners* booklet for ways to help children and young people to cope

Bail

After the defendant has been arrested and taken into custody, they may be released on bail, although this is not usually the case. This means they will be allowed to remain in the community until they are required to appear in court to answer the charges against them. Bail conditions may include reporting to a police station on a regular basis.

Sometimes the accused must deposit a sum of money to the police or courts in order to be released on bail.

At other times, another person will be required to deposit a 'security' (usually in the form of money) on behalf of the accused. This person is called a 'surety'. They guarantee that a person will appear in court on a particular date and time. If the accused does not show up in court, the surety loses their money to the State.

As a family member of the accused, you may feel under pressure to put up bail money. However, if you cannot afford to pay this money – or lose it – then you should think carefully before agreeing to pay bail.

Most people charged by police receive bail, however, it will usually be refused if the charge is serious. It may also be refused if the accused has breached previous bail conditions.

Sometimes the accused will be refused bail when the court or police determine there is a risk that the accused will:

- Fail to appear at the court hearing
- Commit an offence while released on bail
- Endanger the public
- Interfere with witnesses or obstruct the course of justice.

Bail may also be refused if there has not been enough time to clarify the above issues.

Court Support Services

There are a range of court based support services available for some defendants that can look at issues such as housing, finances, drug and alcohol use and mental health.

**Ask the court for a copy of
*A Guide to Court Support Services***

Remand

Remand prisoners have either not applied for bail, been refused bail, cannot meet bail or provide a surety, or are unable to meet the conditions set out in the bail bond. They are held in custody prior to and during their trial and the time spent on remand can vary greatly. In major trials where there is a lot of evidence to be prepared, it can be more than twelve months. However, in most cases it is far shorter than this.

Male remand prisoners will be sent to Melbourne Assessment Prison for assessment and then to the Metropolitan Remand Centre. Female remandees are held at Dame Phyllis Frost Centre (DPFC). Prisoners may be transferred to the Melbourne Custody Centre to stay during their trial if it is in the Melbourne Magistrates Court. If convicted, the time a person has spent in custody on remand is credited as part of their sentence.

Pre-trial period

The uncertainty of this time can be very stressful. It can take a long time for a trial to reach the courts. You may feel stuck in 'limbo'. It may be hard to believe that they could actually be sent to prison. Sometimes gathering information and having a clear idea of what could happen can help you feel more in control.

During the pre-trial period it is wise to prepare for the possibility of imprisonment, even if you believe this is an unlikely outcome. This may involve encouraging your relative to resolve their financial matters, talk to people they may not see for a while, and generally tie up any outstanding commitments. It may be useful to discuss practical concerns such as family finances and possible changes to accommodation at this stage so that the defendant can fully participate in decision making. If your partner has been accused, the pre-trial period may be a good time to talk about what to tell others, especially children. Talking to children at this stage allows them to have more time to understand and accept that their parent may be taken away.

It may be hard to get certain information from lawyers, because the defendant is their client and the Privacy Act can prevent lawyers talking to anyone else about the case. When you do communicate with lawyers it is important to insist on getting honest opinions so that you can prepare yourself for both the best and worst outcomes. Remember that lawyers can get it

wrong too. Nobody can definitely predict the outcome of a case, and sentences given for apparently similar crimes can vary considerably.

Trial

Courts can be intimidating places. The language used during a trial can be hard to understand and this can be frustrating. There are also strict codes of conduct. It is helpful to be aware of these codes before the trial begins to avoid confusion. Court Network can assist with this on page 9.

Families coming to court from country areas should bring an overnight bag containing everything you need in case the trial is carried over to the following day.

Be aware that judges generally do not approve of children being in court as they can easily become bored, worried and confused and there are no childcare or play facilities. It is a good idea to arrange for child care during court proceedings, if possible.

Journalists may be present during the trial, particularly when the charge is serious. This can increase the likelihood that people will find out about the defendant's situation, if they have not been told already. Neighbourhoods, streets, schools, work places may gossip about you and your family, distance themselves from you and even become abusive.

There are other issues that will confront you if you are suddenly thrown into the negative attention of the local and state media. These include:

- Losing control of your sense of privacy. The media focuses on sensationalism and the reporting of 'facts' generally leans towards making the most interesting story rather than the 'real' story.
- Hearing 'new information' that you were previously unaware of. Sometimes the media have very close links with police and receive information that has not been provided to you. You and your family may struggle with this 'new information', deciding whether it is true or not.
- Becoming the target of attention simply because the defendant is still in custody.

However, the media generally only targets major crime from grand theft and fraud to murder and assault.

Contact VACRO for more help in regard to handling the media.

During the trial you may hear things that upset you or that you disagree with. The judge will usually allow time out for those who experience emotional distress during a trial. However, unless you are a witness, you will not be able to voice your opinions during the trial. If you are a witness you will only be able

to respond to direct questions, so you still may feel frustrated that you cannot talk freely. As a witness, you may not be able to attend the trial until you are called to the stand.

Court Network is a community information, support and referral service for individuals, families and friends going to court. Court Network volunteers can explain how the courts operate and show you around the court before the trial. Court Network can be with you in person on your day(s) in court and refer you to other services that can help you – contact them on **9603 7433**.

Victoria Legal Aid, on (03) 9269 0120, also has a range of resources that explain the legal process in easy to understand language.

Sentencing

When the defendant goes to court for sentencing it may confirm the reality of imprisonment for the first time. The sentencing stage can be highly stressful. If a family member who suffers from a medical or psychiatric condition is present, they should be accompanied by someone who knows about their condition and what to do in an emergency. Sentencing usually takes between 40 minutes and an hour. If the defendant is given a prison sentence, they will be escorted by court officers into a police van and taken directly into custody. You will not be able to say

goodbye to them before they are taken away. It is therefore a good idea to do this before the sentencing. Court Network endeavours to be at every sentencing and can provide you with information, support and referral.

You can also ring VACRO to speak to the Family Support Team.

If the defendant is mandated to the Thomas Embling Hospital (a formal directive from court that is not a criminal conviction), family members will be sent a family pack, which includes information for families about caring for people with a mental illness.

Imprisonment

How long will they be in prison?

Trying to understand what the sentence actually means can be yet another daunting process. When the Court sentences an offender to be imprisoned for more than 12 months, there may be a minimum (non-parole) prison term set, followed by a period of time which may be spent in the community on parole. Prisoners cannot receive time off their sentence for good behaviour, so they will always serve at least the set minimum term. Others will receive a straight sentence with no parole.

What is it like going to prison?

You may have many questions about what life is like in a prison.

For more specific information you can call the particular prison or speak to the VACRO Family Support Team, or see our factsheet titled, *The Life of a Prisoner.*

Mainstream and protection

Prisoners are interviewed and assessed when they go to prison and are either placed within the general prison population (mainstream) or in a separate section of the prison in a protection unit.

Prisoners can request to be placed in protection at any time during their sentence if they believe they are at risk of harm from other prisoners. Prisoners may also be placed in protection if the General Manager of the prison has reason to believe that they would be at risk of being harmed by a mainstream prisoner. This may apply to prisoners who have committed certain types of offences, such as sex offences or high profile crimes. Prisoners may also be placed on protection if they have been a police informant or if a mainstream prisoner has bullied them in the past. Prisoners in protection units are physically separated from mainstream prisoners at all times.

Prisoners need to think carefully about whether to go onto protection as it will affect their options while in prison. Protection prisoners may have less access to work and programs compared to mainstream prisoners. Mainstream prisoners often have negative attitudes towards prisoners who have been placed in protection. This may make it difficult for a prisoner to transfer out of protection in future.

Prisoner reception

The Melbourne Assessment Prison (MAP) is the main reception point for all male prisoners. Prisoners usually spend between 7 and 21 days at the MAP. Upon arrival at MAP or DPFC, all prisoners undergo a reception process. They hand in their personal property to be stored while they are in custody, undergo a strip search by prison officers, have a shower, write down the details of people they want on their phone and visits list, get weighed, measured and photographed and can make one phone call to a friend, family member or legal representative.

All prisoners must be assessed after their reception into prison. This assessment includes a medical examination and a risk/need assessment (including psychiatric history, risk of self-harm, drug and alcohol use). Prisoners are then referred to the appropriate service/s within the prison.

A psychiatric nurse performs the psychiatric assessment at the MAP and DPFC. This identifies prisoners at risk or in need of immediate mental health

care, those requiring follow up by a mental health clinician and recommendations for placement within the prison.

Particular attention is given to prisoners who:

- Have an identified history of mental illness
- Have demonstrated history of suicidal behavior or intent in the past two years
- Express suicidal ideation or recent self harm behaviour
- Are entering prison for the first time
- Have attracted a significant amount of media attention
- Have been imprisoned solely on charges which relate to domestic violence and/or are brought under the Family Law Act or which relate to a breach of an intervention order.

A brochure on the prison mental health services provided by Forensicare is available at www.forensicare.vic.gov.au/

Orientation of prisoners

Prisoners receive an orientation session upon arrival at all prisons. The session informs prisoners about the way the day is structured in prison, the programs and services that prisoners can access, and ways for prisoners to look after their health and safety while in prison.

Prisoner Wellbeing

For information about how prisoner health needs are met, including mental health and drug and alcohol; see our factsheet titled *Concerns about the Safety and Wellbeing of Prisoners*.

Which prison will they be in?

Sentence Management

Sentence management is the ongoing process of placing prisoners in prison locations that are appropriate to the prisoner's security risk, program needs and support needs.

The Sentence Management Unit is responsible for giving prisoners a security rating. Each prison has a specified security rating. It is a correctional principle that most prisoners should work their way down the security ratings during their sentence, starting at a maximum security prison and being released from a minimum security prison. This allows eligible prisoners who are approaching release to get used to living in a less restrictive environment again and undertake release preparation programs.

Prisoner security ratings

Sentenced prisoners may be transferred between prisons several times during their sentence. It is

generally expected that prisoners will remain at the same security level for a period of at least 3 months after initial placement or 2 months after.

A1	High
A2	Maximum
B	Medium
C1	Minimum (requires a degree of supervision)
C2	Minimum (can be trusted in open conditions without constant supervision)

In establishing a prisoner's security rating, the Sentence Management Unit considers various factors:

- Security risk posed by prisoner such as escape risk, length of sentence, previously breached bail or community order
- Management issues such as nature of offence, notoriety, Identified Drug User status, risk of harm to self or others in prison, and need for protection.
- Prisoners' needs such as medical and psychiatric needs, intellectual disability, release preparation.

Prisoners are often not given very much advance notice before being transferred to another prison. The prisoner is responsible for informing family members and significant others about changes to their location. For more information about security ratings or where a prisoner has been transferred.

**You can call Corrections Victoria on (03) 8684 6600
or email corrections@justice.vic.gov.au**

Families should encourage prisoners to:

- Be open and honest in their interviews with Sentence Management staff. For example, if they need protection from another prisoner they should say so to ensure that they do not get placed in the same prison as that person.
- Provide medical documentation regarding the illness or disability of a family member, in order to increase the chances that they will be placed in a prison closer to that person.

To find out information about a prisoner:

1. Ring the switchboard number of Corrections Victoria
2. Corrections Victoria staff can verify whether someone is in the Victorian prison system but cannot reveal a prisoner's location unless one of the following criteria are met:
 - The caller has been nominated by the prisoner as their emergency contact person

- The caller has been included on the prisoner's approved visitor list.
3. If the caller is not on the prisoner's approved visitor list, they can write a letter to the prisoner, care of Corrections Victoria, and Corrections Victoria will forward the letter on to the prisoner.

Advocating in the Criminal Justice System

For information on how to make requests or complaints on behalf of the prisoner, see our factsheet titled *Advocating for Yourself, Your Family or a Prisoner.*

Custodial Community Permit Program

There are two types of permits that allow prisoners to leave prison temporarily for a specific purpose and for a specified period of time.

1. Corrections Administration Permits allow prisoners to leave prison under a range of special circumstances. These include:
 - For the administration of justice (e.g. attending court);
 - Health requirements (e.g. attending hospital);

- Attendance at funerals or a visit to a family member in the case of serious illness; and
- Inter-prison visits to a member of the prisoner's immediate family where that person is also in custody.

2. Rehabilitation and Transition Permits include permits for the purposes of:

- Rehabilitation and Reintegration
- Community Assistance and Community Work;
- Physical Fitness;
- Education;
- Family Ties;
- Where the prisoner was a primary carer giver prior to imprisonment and requires family ties to be maintained;
- Allows a prisoner with a child in custody to accompany them for medical or socialisation reasons;
- Release Assistance.

Some of these permits may be linked to specific security rated prisoners only and all have conditions attached to them.

Parole

Once a prisoner has served the minimum, or non-parole, term they will be automatically assessed by

the Adult Parole Board (APB) and a decision will be made about whether the prisoner should be released on parole.

Parole means that the offender is permitted to serve part of their sentence in the community, under the supervision of a Community Corrections Officer (CCO). This is to ensure that they receive assistance in the transition from prison back into the community.

The APB makes decisions in the interests of both the community and the prisoner and all significant parties can make submissions to the APB. This includes families, friends and potential employers of the offender, as well as the victims of the prisoner's crime who are registered on the Victim's Register. Families can also encourage the prisoner to engage in work, education and programs while they are in prison, as these activities are viewed favourably by the APB.

The released prisoner must obey specific conditions set by the APB, such as reporting to their CCO, attending drug/alcohol treatment and submitting to regular urine tests. If the conditions of parole are not met, the APB may cancel the parole order and the offender will be sent back to prison.

For more information on post release issues see our booklet titled *Reintegration*.



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