



Booth, N. and Masson, I. (2021) 'Loved ones of remand prisoners: the hidden victims of COVID-19', *Prison Service Journal*, 253, pp. 23-31.

This is an Accepted Manuscript of an article published by the *Prison Service Journal* on 18/03/21, available online: <https://www.crimeandjustice.org.uk/publications/psj/prison-service-journal-253>

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Loved ones of remand prisoners: The hidden victims of COVID-19

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Introduction

In September 2020, in the midst of the COVID-19 pandemic, the Ministry of Justice (MoJ) released their 'criminal courts recovery plan'¹. This detailed their intentions to pass temporary legislation to extend the time that defendants could be legally held in custody awaiting trial in England and Wales by two months. The MoJ's request was couched as a response to the excess of cases created by the restrictions imposed on courts from the pandemic². However, evidence suggests that a bottleneck existed long before COVID hit, and that this pandemic has intensified rather than caused this backlog³. A joint letter sent to the Government from national organisations with expertise in justice have said these changes were 'not good for victims, witnesses, people remanded to prison or prisons'⁴.

Expanding this argument, we critically consider the possible implications of this extension to the remand period for the loved ones (family, friends and significant others⁵) of people in prison, who are often marginalised by their absence in prison literature, practices, and policy decisions. The pandemic has resulted in some very difficult public health decisions and it is our intention to focus on some of the consequences of these decisions for the loved ones of remanded prisoners. It is important to remember that it is the act of imprisonment, of any length, 'that constitutes the punishment'⁶ meaning that legislations that change the prison experience (in this instance, the duration of remand) bring with them significant, additional

¹ Ministry of Justice. (2020) *Suspected criminals held for longer as criminal courts recovery plan announced*. Available at: <https://www.gov.uk/government/news/suspected-criminals-held-for-longer-as-criminal-courts-recovery-plan-announced> (Accessed: 12 September 2020).

² Outstanding criminal cases are up 48% in crown courts and 39% magistrates courts compared to July 2019. Legal Services Board. (2020) *Coronavirus impact dashboard development*. Available at: https://www.legalservicesboard.org.uk/coronavirus_impact (Accessed: 20 September 2020).

³ McConville, M and Marsh, L. (2020) *England's criminal justice system was on its knees long before coronavirus*. Available at: <https://www.theguardian.com/commentisfree/2020/sep/06/england-criminal-justice-system-coronavirus-covid-19-cuts-2010> (Accessed: 21 September 2020).

⁴ Howard League for Penal Reform, Just for Kids, and Liberty. (2020) *Changes to custody time limits in the crown court*. Available at: <https://howardleague.org/wp-content/uploads/2020/09/Letter-Re-CTLs-16.09.20.pdf> (Accessed: 2 October 2020).

⁵ This term is purposefully broad to include any and all people with whom prisoners might have relationships. For further discussion about terminology when discussing loved ones of prisoners see Masson, I and Booth, N. (2018) *Examining prisoners' families: definitions, developments and difficulties*. Available at: <https://howardleague.org/wp-content/uploads/2018/12/ECAN-bulletin-November-2018.pdf> (Accessed: 4 January 2019).

⁶ Coyle, A., (2005) *Understanding Prisons: Key issues in Policy & Practice*, Milton Keynes: Open University Press. p.13.

repercussions to the lives of prisoners and their loved ones. While in this article we often detail how these are punitive consequences, we appreciate that they were not implemented for punitive purposes.

Remand prisoners (sometimes called pre-trial prisoners) are those incarcerated accused of offence(s), but who have not yet been tried, convicted or definitely sentenced by a court⁷. Remanding a person in custody is an incredibly punitive experience which goes 'beyond the loss of liberty'⁸ and, under Article 6 of the 1998 Human Rights Act, our Criminal Justice System (CJS) should operate on the assumption of innocent until proven guilty in a court of law.

However, at the end of June 2020, 14 per cent of people in prison in England and Wales were on remand⁹. In reality, this has meant that thousands of loved ones were grappling with the practical, emotional, financial and communicative challenges¹⁰ that arose in the wake of their relative's removal into prison custody on remand. COVID 'has changed the world and created unprecedented anxiety and grief to many people and communities internationally'¹¹. Therefore, while Lord Farmer proposed that relationships ought to be the 'Golden Thread running through the processes of all prisons'¹², we catalogue how COVID has severely disrupted relational ties between prisoners' and their loved ones. Adding to this, we argue that extending the remand time is likely to place further strain and hardship on this already marginalised population. Drawing on insights gained from a qualitative study that directly engaged with loved ones of people who were remanded into custody before the pandemic, we propose some critical ways that the remand extension could exacerbate, and therefore cause further harm to, these hidden victims of COVID.

⁷ Coyle, A; Fair, H; Jacobson, J and Walmsley, R. (2016). *Imprisonment worldwide: The current situation and an alternative future*. Bristol: Policy Press.

⁸ Prison Reform Trust. (2011) *Innocent until Proven Guilty: Tackling the Overuse of Custodial Remand*. Available at: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Remand%20Briefing%20FINAL.pdf> (Accessed: 6 October 2012).

⁹ Ministry of Justice. (2020) *Offender management statistics quarterly: January to March 2020*. Available at: <https://www.gov.uk/government/publications/offender-management-statistics-quarterly-january-to-march-2020--2/offender-management-statistics-quarterly-january-to-march-2020> (Accessed: 21 September 2020).

¹⁰ Evidence recurrently highlights these damaging consequences for prisoners' families. See: Codd, H. (2008) *In the Shadow of Prison: Families, Imprisonment and Criminal Justice*. Oxford: Willan Publishing; Jardine, C. (2019) *Families, Imprisonment and Legitimacy: The Cost of Custodial Penalties*. Oxford: Routledge; Booth, N. (2020) *Maternal Imprisonment and Family Life: From the Caregiver's Perspective*. Bristol: Policy Press.

¹¹ Masson, I and Booth, N. (forthcoming) 'Starting the Conversation: An Introduction to the WFCJ Network' in I Masson, L Baldwin, and N Booth (eds.). *Critical Reflections on Women, Family Crime and Justice*. Bristol: Policy Press.

¹² Lord Farmer. (2017) *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642244/farmer-review-report.pdf (Date accessed: 1 October 2020).

Prisons & family life during COVID

In response to the very tangible (short and long-term) dangers of COVID¹³, many countries looked to release prisoners in order to ease the prison population and to allow greater levels of social distancing¹⁴. However, England and Wales were reluctant to choose this route, and despite announcing in April 2020 that up to 4,000 low-risk prisoners could be temporarily released, the actual figure of 315 was much lower when the scheme was paused in August 2020¹⁵. This minor reduction did little to allow for single-cell accommodation as recommended by Public Health England (PHE) to reduce transmission levels and protect the vulnerable¹⁶. Importantly, remand prisoners were not prioritised under this scheme which may have evoked feelings of injustice from their loved ones. In fact, due to the court backlog more people are being remanded for longer, the number of people held on remand increased by 25% in the year leading up to June 2020¹⁷. This will have meant that a larger number of people have been experiencing the multiple issues associated with supporting a family member in prison on remand. Yet, despite the challenges and anxieties of COVID across the nation, there has been minimal public concern for the consequences of COVID-related changes in prisons, especially when they negatively impact those who have not been sentenced to prison. We have forgotten, or are ignoring, these already marginalised groups.

Everyone has experienced new restrictions on our freedoms in a bid to curb the spread of COVID. For prisoners and their loved ones, these restrictions have severely changed the way in which relationships can be constructed, managed and maintained. For instance, the suspension of social visits in March 2020 meant that some families have not met in-person, in over six months – even socially distanced. More recently, and alongside the easing of COVID restrictions nationally, some social visits were reinstated in prisons, operating in restricted and in COVID secure ways. However, delays¹⁸ to restart social, in-person visits when levels of COVID dropped will have caused frustration and emotional damage to those in the

¹³World Health Organization. (2020) *What we know about Long-term effects of COVID-19*. Available at: https://www.who.int/docs/default-source/coronaviruse/risk-comms-updates/update-36-long-term-symptoms.pdf?sfvrsn=5d3789a6_2 (Date accessed: 12 September 2020).

¹⁴For example Turkey, Albania, Portugal, France, Italy, Luxembourg, and Cyprus. Aebi, M and Tiago, M. (2020) *Prisons and Prisoners in Europe in Pandemic Times: An evaluation of the short-term impact of the COVID-19 on prison populations*. Available at: http://wp.unil.ch/space/files/2020/06/Prisons-and-the-COVID-19_200617_FINAL.pdf (Date accessed: 22 September 2020).

¹⁵ 53 were compassionate releases of vulnerable prisoners, pregnant women and mothers with babies. Ministry of Justice. (2020) *HM Prison and Probation Service COVID-19 Official Statistics*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916684/HMPPS_COVID19_AUG20_Pub_Doc.pdf (Date accessed: 20 September 2020).

¹⁶ O'Moore, E. (2020) *Briefing paper- interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882622/covid-19-population-management-strategy-prisons.pdf (Date accessed: 25 September 2020).

¹⁷ See MoJ (2020), no. 9.

¹⁸Due to 'three layers of authorisation'. Justice Committee. (2020) *Coronavirus (Covid-19): The impact on prisons*. Available at: <https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/299/29905.htm> (Accessed: 20 September 2020).

community eager to see their imprisoned relative. By virtue of the close proximity and shared physical space they afford, social visits can provide important opportunities for comfort and reassurance, and therefore foster a more meaningful interaction for loved ones separated by imprisonment¹⁹. Although many will have understood the reasons behind stopping such visits, it does not detract from the harms upon those for whom this was a reality. Acknowledging the severity of the restrictions for children separated from imprisoned mothers, the Joint Committee on Human Rights reported that the ‘blanket ban’ on social visits risked breaching both groups rights to family life²⁰. Their review encouraged socially distanced visits and more nuanced responses by The Government and HM Prison Service, where safe to do so.

To a degree, the importance of maintaining family contact was acknowledged in prisons. Virtual visits²¹ were introduced across the prison estate following the start of the pandemic enabling very limited face-to-face contact facilitating up to one 30 minute video call per month between loved one(s) and a prisoner. However, these virtual calls are very unlikely to have sufficiently replaced the amount of contact that family members of remand prisoners would normally have been entitled to. Technical issues have also hampered the delivery, with only 7,785 video calls made in public sector prisons in the period of 3rd-30th August 2020²². Compare that figure to the current prison population which sits around 80,000 in England and Wales, very few loved ones of remand prisoners have seen their family member(s). As such, several prison commentators have criticised the slow, inconsistent, and sometimes ineffective, roll-out of this service across the prison estate, and highlighted the distress and damaged trust it has caused from those inside and outside of prison desperate to use the facilities²³. Likewise, whilst virtual visits can serve many positive purposes²⁴, they cannot – and should not – replace in-person social visits long-term because of the knock on consequences to family members.

Another difficult public health decision to help curb infection risks towards the start of the pandemic restricted movement within the prison. While some easing of these restrictions occurred as COVID levels dropped, many out of cell activities have been limited or

¹⁹ Prison Reform Trust. (2020) *Covid-19 Action Prisons Project: Tracking Innovation, Valuing Experience*. Available at: http://www.prisonreformtrust.org.uk/Portals/0/Documents/CAPPTIVE_families_webfinal.pdf (Accessed: 22 September 2020).

²⁰ Joint Committee on Human Rights. (2020) *Human Rights and the Government’s response to COVID-19: children whose mothers are in prison*. Available at: https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/518/51803.htm#_idTextAnchor000 (Accessed: 19 September 2020).

²¹ In public sector prisons this service is provided by Purple Visits - <https://www.purplevisits.com/purple-visits-for-prisons/>

²² Ministry of Justice written question. (2020) *Remand in Custody: Visits*. Available at: <https://www.theyworkforyou.com/wrans/?id=2020-08-28.81737.h&p=11921> (Accessed: 21 September 2020).

²³ See Prison Reform Trust (2020), no. 18.

²⁴ See Booth (2020), no.10.

suspended²⁵. Not only did this lead to many prisoners being confined to their cells for more than 23 hours a day²⁶ (which, although imposed for public health reasons, could be felt as an overly punitive solitary confinement experience), but the lack of association time has affected access to telephones located on wings in prisons without in-cell telephone facilities. As the evidence has shown, frequent telephone contact is crucial for enabling prisoners to sustain relationships with loved ones in the community²⁷, and so it was heartening to see creative solutions to these communicative barriers being found during the height of the pandemic²⁸. As telephone contact is only permitted one-way (outward from prison), it is very likely that loved ones in the community were waiting for, and relying on, their imprisoned relative to contact them and provide reassurance about their health and wellbeing.

Given these circumstances, some prisons have reported an increase in self-harm, self-inflicted deaths as well as spikes in violence, although we await data from across the prison estate²⁹. There are also particular concerns about the cumulative impact of these lockdown restrictions, particularly on prisoners, who have, or are developing, mental health conditions. Family members are aware of these resulting outcomes in prisons, and on their imprisoned relatives, during this very difficult time. Consequently, COVID experiences for prisoners' loved ones will have involved juggling a combination of the above-mentioned concerns for their imprisoned relative *in addition* to intensified challenges negotiating their everyday lives at home and in the community.

What these examples show are the critical ways that CJS decisions and practices during the pandemic have already directly impacted prisoners' loved ones. Changing the legislation to expand the remand time period will result in further punitive outcomes, and later in this paper we suggest three particularly damaging ways this could happen. These are via: 1. Systematic court issues; 2. Practical and relational consequences; and 3. The ripple effect on mental health.

²⁵This includes: access to education and training, paid work, going to worship, the library or the gym, and association time.

²⁶ However, according to the IMB 'there is considerable inconsistency in relation to time out of cell, which does not appear explicable by the function or lay-out of the prison, with some prisons providing as little as 30 minutes a day out of cell, or exercise only every other day'. Owers, A. (2020) *Update on Independent Monitoring Board findings*. Available at: <https://committees.parliament.uk/publications/1416/documents/12925/default> (Accessed: 21 September 2020).

²⁷ Booth, N. (2020) 'Disconnected: exploring provisions for mother-child telephone contact in female prisons serving England and Wales', *Criminology & Criminal Justice*, 20 (2), pp. 150-168.

²⁸ For prisons without in cell telephones mobile phones were distributed and prisoners were given £5 telephone credit every week. See - <https://www.gov.uk/guidance/coronavirus-ga-for-friends-and-family-of-prisoners>

²⁹ See Owers (2020), no. 26.

The FOR study

A growing body of research on prisoners' families has illuminated the practical, emotional, domestic, and economic pressure that supporting someone in custody entails³⁰. The Families on Remand (FOR³¹) study intended to bridge a gap in this extant literature by exploring how remand – as a type of imprisonment which has received much less attention - is experienced by loved ones. Semi-structured interviews were conducted with 61 prison visitors who were supporting 50 men and women with personal experience of prison remand in England and Wales. Following ethical approval from the researchers' respective Universities, potential participants were identified in visitors' centres at three English prisons (two male and one female) over an 18 month data collection period spanning 2018 and 2019³².

Reflecting previous research with prisoners' families³³, the final sample was gendered; as 47 participants were women, of whom 35 were either a partner or mother³⁴ of the person in prison. Other participants were fathers, siblings, aunts, uncles, grandparents, cousins and friends and they ranged from 21-90 years of age. The majority self-identified as white British, though individuals also identified as white European, white Irish, white Gypsy, British Kurdish, British Black, British Asian, and mixed heritage.

At the time of interview, the person in prison being supported by the participants were at different stages in their journey through the CJS, though eligibility criteria ensured they had been remanded at some point³⁵. The data captures the thoughts and perspectives of prisoners' loved ones, and the researchers prioritised their meaning-making of their experiences throughout the research process (e.g. their accounts were not cross checked with official prison records). Interviews were audio-recorded, transcripts were typed verbatim and data was analysed thematically. All names used are pseudonyms. While the FOR project was conducted just before COVID escalated in England and Wales it gives us a strong warning for the likely impacts for the family members of this decision to extend the legal time to hold a prisoner. Three issues are critically discussed below.

Systemic court issues

Court restrictions imposed to respond to COVID have postponed many cases, though long delays were already common as courts in England and Wales were struggling to manage caseloads. The median waiting time in 2019 was 5.7 weeks for a Crown Court³⁶, though those

³⁰ For examples, see no. 10.

³¹ Funded by The Oakdale Trust.

³² Thanks to Roberta and Dan, and the loved ones who took part in the study.

³³ See Codd (2008) and Booth (2020), no.10.

³⁴ The definition of mother includes biological mother, step-mother and foster-mother.

³⁵ 30 were convicted and sentenced, 12 were remand (pre-trial), 5 were remand (convicted, awaiting sentence), and 3 had been recalled to prison.

³⁶ Calculated as duration from case being committed to court and the first main hearing. Ministry of Justice. (2020) *Criminal court statistics quarterly, England and Wales, April to June 2019*. Available at:

pleading not guilty waited on average five times longer than those that pleaded guilty. This is reflective of the additional preparations required from all parties (e.g. legal representatives, Crown Prosecution Service (CPS)) for a full trial which also brings with it additional costs, and is one reason why guilty pleas are incentivised by a reduced sentence³⁷.

These lengthy court waits prolong the uncertainty surrounding the duration that families will have to negotiate their relationships within and around prisons. For the loved ones interviewed in our research, this uncertainty was a source of emotional turmoil for everyone involved. Stewart explained how the delay was an additional and harmful part of the punishment that comprises imprisonment on remand, when awaiting his wife's hearing, even when they were prepared for the outcome of a prison sentence.

"[It's] like having the sword of Damocles hovering over your head and knowing that it would result in a custodial sentence, because there was no question of that, that was not nice, you know if, if you're gonna be executed, do it straight away, don't keep someone in suspense, it's not, it's not nice, so remand is fine but it should be for as shorter period of time as is possible"

Extending the period of time a person can be held legally on remand simply draws out the pain for loved ones involved. In fact, prior to COVID, there were several reasons why a period of remand was often not short. Many of these delays occurred owing to external, systemic factors, with issues arising when processes and practices were not organised or administered in a timely fashion. For 24 months following the arrest of Saskia's brother, his court case was 'unlisted' (i.e. not scheduled by the courts), owing to problems locating a witness.

"The court case kept getting unlisted, unlisted, and kept getting thrown out, so they couldn't get hold of witnesses. Then they said that they don't think it was going to come to court, so when it did it came as a shock really"

Saskia explained how the outcome of her brothers' conviction and remand while awaiting trial was particularly shocking following the delays and misinformation about the probability of a trial. Together, this caused additional emotional anguish to the family. Another family experienced three adjournments in the lead up to the trial. One postponement occurred because the witness failed to show, while on another occasion it was because mental health assessments, and the associated court reports, had not been prepared. In fact, delays as a result of the organisation of appropriate assessments were mentioned by several of the loved

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834217/ccsq-bulletin-q2-2019.pdf (Date accessed: 24 September 2020).

³⁷Sentencing Council. *Reduction in Sentence for a Guilty plea Definitive Guideline*. Available at: <https://www.sentencingcouncil.org.uk/wp-content/uploads/Reduction-in-Sentence-for-Guilty-Plea-definitive-guideline-SC-Web.pdf> (Date accessed: 21 September 2020).

ones. These experiences bring to light the many pieces of the puzzle that are required to ensure that a trial can commence, as well as the associated delays that take place in the absence of one key piece.

The FOR study findings show that there were a number of factors that had to be aligned, as well as hurdles overcome, in court preparations prior to COVID. At present, there is little evidence that extending court time periods will ensure that these pieces of the puzzle will come together in a more succinct way than was possible before COVID, but instead ‘kick the can further down the road’. If anything, those involved with bringing together these puzzle pieces or external factors will be undergoing greater strain as they are likely to be negotiating other/different pressures owing to the pandemic. For example, criminal justice professionals (as with many people during the pandemic) are likely to continue juggling home working, childcare and health concerns associated to changes in the personal and professional lives from COVID restrictions. Part of this juggling act will involve negotiating access to remand prisoners either using technology (i.e. virtual legal visits), or by attending in-person to carry out psychiatric assessments or to discuss their legal case. Much like social visits, in-person forms of contact have recently experienced public health restrictions in an attempt to reduce the risks associated to external people entering prisons. With access permitted, technology has the potential to alleviate the need for in-person contact in order to enable court preparations to take place.

Systemically, criminal justice factors sit outside of defendants’ and their families’ control during the remand period and extending the remand timeframe will likely also exacerbate any pre-existing difficulties. By way of example, Angela talked of the frustration of not knowing how long she would be parenting alone following her partners remand into prison, saying that: *“once he’s got a sentence we know what we’re dealing with”*. While her partner intended to plead guilty in a bid to reduce his prison time, the person co-accused alongside him had submitted a not guilty plea; necessitating a full trial and further delay to the issuing of a confirmed sentence length. Without the support of her partner, Angela’s responsibilities included, amongst other things, sole primary caregiving and managing domestic activities, household bills, and childcare costs. An extension of two months to the remand period, as suggested by the MoJ, would mean that families, such as Angela’s, would be subjected to additional delays in knowing the sentencing outcome despite a guilty plea. Not only could this have a detrimental impact on relationships (as discussed later), but in the context of on-going and ever-changing COVID related restrictions, loved ones like Angela’s responsibilities would have to be negotiated with added health and wellbeing worries. It is therefore so important that we do not underestimate the emotional toil for hidden family members already living with the uncertainty created by remand in the additionally stressful social context of COVID.

Practical and relational consequences

We know from existing research that incarceration of a loved one can apply significant pressure on existing relationships³⁸. Over half of those in prison being supported by loved ones in the FOR study were held on remand for over the current maximum remand time of 182 days. Those we interviewed outlined a variety of ways in which they had needed to adapt their roles and relationships when their loved one was incarcerated, even before COVID. For example, Georgie talked of her competing financial commitments after her partner was remanded into prison custody.

"I'm paying for his tenancy at the moment...I'm a single mum of three kids. It costs me £300 a week in childcare, and then his rent on top of my rent and my bills".

She did not know how long she would have to keep juggling her finances like this. Loved ones also often acted as a middle-(wo)man between a solicitor or probation officer and the person in prison and frequently used the visits and telephone calls to provide regular updates. For those still on remand, often this relaying of information was related to a court appearance, a new piece of information, or their plea. In fact, preparations for court often heavily involved loved ones who expressed opinions on, or acted as a sounding board for, decisions around guilty or not-guilty pleas. As well, they were generally actively involved in collecting and organising information which might inform these decisions, or act as a support for the defence. For example, Jackie had expected more help from their son's legal representative, and so when considering what advice she might give to other loved ones providing support to a remand prisoner, she said:

"check it out and get your evidence together because they ain't gonna get it all, you have to help, to do it yourself as well, they can't do in from the inside, so it's down to you...you need to check that what they're doing is the right thing for your loved one, if you can, google it"

Many of those we interviewed expressed pressure from the remand prisoner, from others, and from themselves to help the loved one in prison. Many were navigating systems that they had no training and limited experience of. However, the previously mentioned limited meaningful contact time between prisoners and their loved ones as a result of COVID related delays/extensions are unlikely to provide appropriate time needed to discuss such significant issues and engage in detailed decision-making conversations. They are also likely to interfere with opportunities for prisoners and their family members to speak with legal representatives who, as previously discussed, are themselves navigating more challenging personal and professional commitments in light of COVID restrictions.

³⁸ See Codd (2008), no. 10.

Few would argue that two additional months held remanded in custody will allow the prisoner, their legal representative, and their loved ones to build a stronger defence – especially in the current climate. Of concern, there is increased demand for legal aid with LawCare charity reporting a 42% increase in the number of enquiries compared to July 2019³⁹. This is likely indicative of larger financial burdens felt in households nationally owing to COVID, and associated challenges brought about by the furlough scheme and increased unemployment rates⁴⁰. A consequence of issues with contact and concerns over the extended court time period may result in people remanded in custody feeling pressure to plead guilty in an effort to speed up court processes. This may place additional, undue pressure upon often already strained relationships with loved ones, who we found were already juggling multiple commitments before COVID hit.

Ripple effect on mental health

As we have seen, a key impression from speaking with loved ones supporting a person during their time remanded into prison custody was the prolonged and severe anxiety that accompanied the uncertainty surrounding the duration and outcome of the imprisonment. Added to this profound worry, participants explained how their concerns were heightened owing to reservations about the wellbeing of their incarcerated family members. Reasons for this varied across the sample, but frequently cited were poor prison conditions, worries about their physical and mental health (both pre-existing and newly developed), high levels of violence, treatment by prison staff, and access to illegal substances. These are all areas repeatedly highlighted as having on-going struggles in some areas of the prison estate by HM Inspectorate of Prisons⁴¹. They also comprise some of the key features of academic arguments that propose there is a ‘crisis’ in prisons serving England and Wales⁴².

The concerns held by those in the FOR study often developed from media reports about the prison estate more generally, as well as local news reports about the conditions in the prison that detained their relative. They were also shaped by accounts told directly from their imprisoned relative, or in the case of Cody, from over-hearing an incident while on the phone with her partner. Both Cody and Stephanie were visiting their partners in a local, remand prison when they were interviewed, and in the extract below they describe the profound and

³⁹Legal Services Board. (2020) *Coronavirus impact dashboard development*. Available at: https://www.legalservicesboard.org.uk/coronavirus_impact (Accessed: 20 September 2020).

⁴⁰King, B. (2020) *Unemployment rate: How many people are out of work?* Available at: <https://www.bbc.co.uk/news/business-52660591>. (Accessed: 28 September 2020).

⁴¹ HM Chief Inspector of Prisons for England and Wales Annual Report 2018 –19. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814689/hmip-annual-report-2018-19.pdf (Accessed: 1 October 2020)

⁴² Cavadino, M., Dignan, J., Mair, G., and Bennett, J., (2019) *The Penal System: An Introduction* (6th ed). London: Sage.

constant worry for their respective partners' safety, as well as their attempts to manage this stress by removing negative thoughts.

Cody: I was on the phone to my partner and I could hear the screams ... I was like, 'let me go' [to my partner], and I had to go [off the phone], I couldn't, it's not good, it's very, very, very bad to be honest with you, so scary

Stephanie: I have to switch my head off otherwise I'd be sick with worry

Cody: you really have to, you do ... yeah if you think about it too much it just gets to you, you just kind of block it

As with Cody and Stephanie, many of the loved ones interviewed talked extensively about the ways in which their fears for the person in prison were all-consuming. This was particularly evident when discussing the initial separation through remand when their relative was often held in a larger, local prison, and when they were faced with the challenge of navigating arduous prison processes, sometimes without any prior experience of the criminal justice system. During his remand, Bindu's youngest son frequently called her distressed and upset about his confinement. Relaying one episode, she explained how: *"he was sobbing, he was so hysterical on the phone and I'm here miles away, how can I calm him down?"* Bindu felt powerless in these situations as there was little she felt she could do to respond to his issues to support him from afar. In turn, providing this emotional support led to Bindu becoming very mentally unwell to the point where she was unable to work and/or leave the house for a period of time. Despite the emotional burden accompanying these calls, her fears for her son escalated on the days with no contact.

During a pandemic of this scale, which has seen over one million deaths worldwide⁴³, people separated from a loved one through imprisonment are going to feel increasingly concerned for one another's health and wellbeing. For family members in the community, not only might this pertain to the very limited control over the environment and safety measures implemented in the establishments in which their relative is detained, but also their imprisoned relatives' ability to cope while having reduced contact and support, alongside increased in-cell time and periods of isolation. During a time when contact opportunities to 'check-in' and to garner much-needed reassurance, or provide emotional support in an attempt to offset some of psychological impact of the more restrictive COVID-based prison regimes, this outcome was sometimes less achievable.

⁴³ World Health Organization. (2020) *Coronavirus Disease (COVID-19) Dashboard*. Available at: https://covid19.who.int/?gclid=CjwKCAjw_NX7BRA1EiwA2dpg0imyxa45vHingzqC4OnFEvHDYoHOK2oH-8WcgeVhZzBXUSXyGQmyhBoCafIQAvD_BwE (Accessed: 1 October 2020)

Likewise, the closed community of a prison may provide the perfect breeding ground⁴⁴ for COVID-19 with Government mandated rules, such as 2m social distancing and strict guidelines on the number of people with whom you should come into contact, being something of a challenge for prison establishments built and operating with very different intentions. Having expressed the chronic worry that accompanies supporting a person in prison in our research, this is likely to have worsened for many loved ones during the pandemic. As such, the MoJ's proposal to extend the period of time that remanded prisoners can be detained will only prolong the uncertainty around acquittal or sentencing, and unnecessarily inflict harm to family members. Furthermore, whilst there may be significant concerns about the levels of self-harm and suicides within prisons⁴⁵, the true emotional turmoil experienced by those on the outside is likely to remain hidden for a long time to come.

Concluding comments

Our research has shown that loved ones supporting a person in prison on remand were experiencing considerable obstacles and challenges in their daily lives and relationships *before* COVID. In this paper, we have highlighted how their circumstances could be significantly worse if the extended remand time is implemented, and especially given the added concerns and pressures that all areas of society are experiencing as a result of COVID.

Few would argue that changes had to be made within the prison estate in an attempt to curb COVID levels, and indeed, the results have shown that these have been largely effective in preventing prisons from becoming the breeding grounds they were earmarked as being. However, we are concerned that the negative impact of these difficult public health decisions upon those outside of the prison has not been adequately prioritised by The Government and HM Prison Service. This is despite previous recommendations from the reviews conducted by Lord Farmer⁴⁶ indicating the need for prisons, and the wider CJS, to prioritise family relationships and to weave it through all policies and processes as a 'Golden Thread'. Although there are a number of unknowns related to COVID, including ever-changing rules, restrictions and developments in our understanding of best practice, amongst all of this uncertainty, we must not lose focus and forget Lord Farmer's sentiments which are perhaps more critical now than they have ever been.

With what appears to be an increasing pattern of positive cases, hospital and ICU admissions, and COVID related deaths in the latter half of 2020, it seems that lockdowns and restrictions are here to stay and that delays with court cases are unlikely to reduce. A more flexible and

⁴⁴ InsideTime. (2020) *More coronavirus in prisons than in community*. Available at: <https://insidetime.org/more-coronavirus-in-prisons-than-in-community/> (Date accessed: 28 September 2020).

⁴⁵ Ministry of Justice. (2020) *Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to June 2020 Assaults and Self-harm to March 2020*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905064/safety-in-custody-q1-2020.pdf (Date accessed: 28 September 2020).

⁴⁶ See Farmer (2017), no. 12.

nuanced approach to supporting relationships between people in prison and their loved ones, as proposed by JCHR during maternal imprisonment, would be more appropriate and less harmful. It would also better acknowledge that families do suffer negative consequences as part of the fallout from public health decisions. By comparison, the announcement detailing the plans to increase the remand period did not mention how these changes to legislation – albeit in response to a global pandemic and public health concerns – would have significant consequences to the loved ones of remanded people. While they may have been considered during the decision-making process, it is imperative that their lives and experiences are not absent. This is critical to ensure that this population do not remain the hidden victims of COVID.