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The Plight of Children Whose Parents Are in Prison

Barry A. Krisberg, Ph.D.
The Honorable Carolyn Engel Temin

INCARCERATED PARENTS: A GROWING NATIONAL PROBLEM

Traditional discussions about sentencing policy pay scant attention to the effects of imprisonment on parents and their children. However, the enormous rise in the numbers of people behind bars, especially women, has brought this issue to prominence. In 1999, more than half of all state and federal prisoners reported having a child under the age of 18. Over 721,500 parents of an estimated 1,324,900 minor children are confined in prisons. Since 46 percent of these incarcerated parents reported that they resided with their children prior to entering prison, the Bureau of Justice Statistics estimates that 336,300 U.S. households with minor children are impacted by the imprisonment of a parent (Mumola, 2000). African American children are nine times more likely to have an incarcerated parent than white children. Latino children are three times more likely to have an imprisoned parent than white children. These numbers increased steadily during the 1990s — the number of minor children whose parents were locked up increased by over 500,000 during this period.

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The alarming rise in the number of women inmates has exerted a profound impact on this issue. Children are far more likely to live with their mother rather than their father prior to parental incarceration (64 percent versus 44 percent, Mumola, ibid). After parental incarceration, a child whose father is imprisoned usually lives with the mother, while the child of an incarcerated mother is much more likely to live with grandparents, other relatives, or to be placed with foster care agencies. The children of incarcerated women are more than five times more likely to enter the foster care system than children whose male parents were in prison. Thus, the decision to incarcerate a woman with minor children often creates immediate problems for the child welfare system (Bloom and Steinhart, 1993; Acoca and Raeder, 1999). There are several other important concerns unique to incarcerated mothers that we will discuss later in this paper.

ustice reports that the majority of children have never had a personal visit with their incarcerated parent after prison admission, although the vast majority of inmates say that they stay in touch with their children on a weekly basis via letters and telephone calls (Mumola, 2000). Sheer distance seems to be a major impediment to children visiting their imprisoned parents. Most parents are confined in facilities that are more than 100 miles from their last place of residence. Because there are fewer women's prisons, their children often must travel greater distances to visit with their mothers. The barriers to visits are especially difficult for federal prisoners whose place of incarceration is typically very remote from their place of last residence.

Children Adrift

Nearly a quarter century ago, the National Council on Crime and Delinquency (NCCD) and the Children's Defense Fund (CDF) chronicled the plight of children with incarcerated parents (McGowan and Blumenthal, 1978). Fifteen years later, the NCCD replicated this national study and found that the number of incarcerated women and men had grown tremendously, but there was little or no improvement in the response to their children (Bloom and Steinhart, 1993). Both studies used the title "Why Punish The Children?". The simple, but crucial point was that the children of offenders had committed no offenses, yet they were made to suffer from the "not so benign neglect" of governmental agencies. Both studies documented how neither courts, corrections departments, nor social welfare agencies took any meaningful actions to care for the children of incarcerated parents. These children were often adrift amid a range of official policies and procedures that seemed illogical, at best, and often anti-child at worst.

For example, children who visited their incarcerated parents had to participate in the mass visiting process of state prisons, with no provisions for their childhood needs. NCCD found that it was not unusual for infants and small children to be subjected to strip searches and body cavity intrusions. The children were often left to fend for themselves as the adult visitors discussed a range of complex legal and financial issues.

Social workers were rarely encouraged to facilitate prison visits between children and their parents. There were few provisions for transportation of children to remote prison locations. Those social welfare staff who did try to keep families connected were also subjected to humiliating treatment by corrections officials who claimed to be guarding against smuggling of illicit goods into the prisons. Children were often quickly moved into foster care settings with little planning for permanent living arrangements. A frequent social welfare response was to place the children with relatives (often grandparents) – this permitted the social welfare agency to provide minimal (or, in some cases, no) financial aid to the "kinship caretakers." Laws in some states prohibited foster care payments to the relatives of incarcerated parents (Bloom and Steinhart, 1993). Kinship care givers are often faced with immediate financial hardships, and they usually lack the legal advocacy resources to navigate through the complex web of welfare regulations. Further, there was little or no screening to determine the fitness of kinship care givers to take custody of a minor child.

Sometimes the children were told that their parent had died, later the story would change (McGowan and Blumenthal, 1978). Few, if any, counseling resources specifically designed to address the needs of those with incarcerated parents were available to the children themselves, or their care givers. Both NCCD studies found that the children of incarcerated parents did not thrive. Parents reported that the children experienced severe problems in school and showed signs of serious mental health and behavioral problems. There is growing research evidence that the children of incarcerated parents (especially those whose mothers are in prison) show much higher rates of subsequent criminal behavior and incarceration (Acoca, 2000; Acoca and Dedel, 1998; Gabel and Johnston, 1995; American Correctional Association, 1990) . Thus, the problems of children whose parents are in prison, if not attended to, produce inter-generational patterns of crime and violence.

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It is not difficult to imagine how the experience of having a parent locked away in a distant prison would create such adverse impacts on children. For example, the Center for Children of Incarcerated Parents studied the effects of incarceration on 56 children from South Central Los Angeles. The study noted that these children had been subject to a broad range of adverse experiences including extreme poverty, exposure to violence, pre-natal drug exposure, and violent deaths of family members. Added to these extreme stress factors was the forced removal of the parent from the household. The Center found that these children were even more vulnerable to the impact of separation from parents, leading to severe traumatic stress. The traditional role of the parent in helping children deal with difficult life situations is greatly diminished in these families. Stable, nurturing home environments that are key to building resiliency among young children are often absent (Center for Children of Incarcerated Parents, 1992).

The overwhelming evidence from research on early childhood development demonstrates the critical importance of establishing a "strong and enduring attachment bond to at least one care giver during infancy" (Yale Law Journal, 1978:1411-1412). Many scholars have underscored the role of parental attachment in the formulation of healthy emotional and cognitive competencies (Bowlby, 1953; Ainsworth, 1973; Goldstein, Freud, and Solnit, 1973). Moreover, there is strong evidence that the removal of a child from a family may cause additional psychological damage (Wald, 1975). In particular, children who are shifted among multiple care givers often experience great difficulties in establishing close interpersonal relationships. Research has indicated that the first two years after a child's birth are particularly critical for forming parent-child attachments, although the long-term impact of early separation can be reduced if the child and parent are reunited within a brief time frame (Yale Law Journal, 1978). Little is known about whether the long-term negative consequences of lengthy early childhood separation from parents can be reversed later in life.

Decisions to sever parent-child ties must be grounded in a very careful analysis of potential harms to the child. Families awash in mental illness, drug abuse, violence, and other personal forms of dysfunction can be very hurtful to children. Child welfare professionals must make "life or death" decisions regarding the removal or maintenance of a child in an abusive or neglectful home environment. Social work professionals must also assess whether the provision of appropriate treatment services can greatly reduce the threats to the child while averting the problems created by separation (Wald, 1975). When the case involves incarcerated parents, careful assessment of "best interests of the child" is rare. Parental incarceration often is viewed, per se, as evidence of extreme neglect. The virtual absence of programs that could maintain infant and parent bonds during the criminal sentence makes such considerations moot (Morash et al., 1995). Since it is rare that criminal courts and family courts coordinate their planning, the question of what will become of the child is often an afterthought for the justice system.

Special Burdens of Incarcerated Mothers

No analysis of the problems of children whose parents are incarcerated can ignore the special plight of women in prison. As noted earlier, women are most likely to be the prime and sole caretakers of their children, and they are more likely to be living in extreme poverty or homelessness prior to their imprisonment (Mumola, 2000). The incarceration of women has grown rapidly in recent years, particularly as states and the federal government have instituted tough new mandatory sentencing policies as part of the "War on Drugs" (Acoca and Raeder, 1999). Incarceration has displaced probation as the prime sentencing option for many women offenders. Sentencing guidelines have "bootstrapped" sentences for women to more closely resemble the statistical average for men (Acoca and Raeder, 1999). While these changes have been justified in terms of greater equity in the sentencing process, many believe that grave injustices are being perpetrated in the name of gender fairness (Chesney-Lind, 1991; Amnesty International, 1999).

Research has consistently demonstrated that women are most likely to be imprisoned for non-violent crime – almost 74 percent of women in state prisons were admitted for non-violent offenses, while the majority of men behind bars were convicted of violent crimes (Mumola, 2000). Women are more likely to be low level couriers in drug transactions, and to commit their offenses to satisfy their addictions(Acoca and Austin, 1996). Women are less likely to be disruptive inmates, and have lower rates of recidivism (Acoca and Raeder, 1999). Despite these findings, the reduced danger to public safety posed by women offenders seems is not given any weight as jurisdictions move to more rigid sentencing schemes. Parenting considerations are almost never considered by judges as they set penalties within statutory guidelines systems. This is particularly ironic since an offender's value to his/her employer can be considered to ameliorate some sentencing guidelines, but their value as a sole care giver is not deemed relevant. Since men are more likely to be employed, and women more likely to be primary care givers, the superficial pursuit of "gender neutrality" produces greater gender discrimination (Raeder, 1993).

Women, unlike men, sometimes are pregnant and give birth while behind bars. Amnesty International (1999) and the United Nations Special Rapporteur on Violence Against Women (1999) have documented the virtual absence of pre-natal care for incarcerated women (Barry, 1991). They have reported several incidences of women forced to give birth in prison cells or corridors, often while they are shackled. Morever, it is customary that babies born to prison inmates are immediately separated from their mothers and placed in emergency foster care

or with any relative willing to assume the burden.

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This extreme cruelty towards women inmates fits a historical pattern in which women inmates have endured harsh conditions of confinement and been subject sexual abuse by guards (Immarigeon and Chesney-Lind, 1992). Abusive experiences in prison are tragic continuations of physical and psychological abuse that many inmates have endured throughout their lives (Owen and Bloom, 1995; Acoca and Dedel, 1998).

Other social policies have exerted an adverse impact on inmate mothers. National and state reforms in welfare and adoption laws have made it easier to eliminate welfare benefits for women offenders, and have created nearly insurmountable barriers for inmate mothers who want to be eventually reunited with their children. For example, new federal laws had very negative impacts on inmate mothers. The Personal Responsibility and Work Reconciliation Act of 1996 made it far easier to drop families from the welfare rolls if the parents had criminal convictions for a drug offense**.** The Adoption and Safe Families Act of 1997 imposed tighter time frames for family courts and the provision of child welfare services to preserve families. Incarcerated women are now much more likely to lose their children to adoption, and less likely to qualify for family preservation services of any sort (Acoca and Raeder, 1999).

Policy and Program Alternatives

The problems of children whose parents are in prison must be addressed, not only for humanitarian reasons, but to attempt to interrupt the intergenerational cycle of crime and violence.

The nation can no longer tolerate having over 1.5 million minor children in limbo. The policy and program options are clear, and many sensible solutions have been advocated by many professional groups such as the National Association of Women Judges, the American Bar Association, the American Correctional Association, the Child Welfare League of America, and the National Council on Crime and Delinquency**.** It is now time for elected officials, courts, and public agencies to begin to implement the necessary reforms.

First and foremost, sentencing options must be expanded to be responsive to the needs of the children of incarcerated parents. This could mean changing sentencing provisions to allow for qualified, low-risk offenders to serve their sentences in non-institutional settings. Sentencing guidelines must be re-examined to determine if they are overly rigid, and if they create defacto discrimination against parents, especially the primary care givers. Whenever possible these reforms should create alternative sentencing options that permit children to continue to reside with their parents. Where current laws permit, judges should take the offender's care giver role into consideration as part of the pre-sentence investigation. Judges should consider a range of sentencing options that tend to preserve family attachments. These steps presuppose adequate funding of community corrections programs to give the courts appropriate sentencing alternatives that keep families together whenever this is feasible. Legislation enacted in California, and at the federal level, has attempted to dedicate funding for community-based correctional alternatives that keep children and their parents together**,** but funding for these programs has been woefully inadequate or virtually non-existent.

The child welfare system must accept increased responsibility for the grave challenges faced by children of incarcerated parents. Mechanisms must be established or strengthened to coordinate family reunification services with the courts and corrections agencies. Child welfare agencies should make reasonable efforts to keep siblings together, to place children with responsible relatives, and to facilitate visits between children and their incarcerated parents. Imprisonment, and the barriers faced by incarcerated parents in maintaining frequent contacts with their children, should not be the sole basis for recommendations to terminate parental rights. Policies denying full foster care benefits to legitimate kinship care givers should be eliminated. Government agencies should develop and fund community agencies who can provide a wide range of support services for incarcerated parents, and the children's care givers. These services should include legal advocacy, training and support for kinship care givers, and additional medical and mental health services for the children, as needed. Existing state and

federal child welfare laws should be reviewed to eliminate any unnecessary obstacles or disadvantages created for the children of incarcerated parents

Corrections agencies should implement policies and procedures that promote positive contacts between incarcerated parents and their children. These steps might include placing parents in institutions closest to their children's residence, expanded visiting programs, including special visiting areas for minor children, and increased transportation and visitor support services. Such programs will not only reduce the negative effects of imprisonment on children, but have been shown to reduce recidivism rates (Acoca and Raeder, 1999).

Health care practices must be reformed to provide an appropriate level of care for pregnant inmates. Whenever possible, correctional officials should create non-institutional settings for pregnant inmates, and for an appropriate period after the child's birth. In-prison nurseries are a possible option but non-institutional placements are the preferred program option. Corrections agencies should contract with community agencies which have extensive experience working with low-income families.

Pre-release programs for inmates should include training for inmate parents returning to their families, assisting them to regain custody of their children when appropriate, to help secure decent housing, and to find employment. Similar services for inmate parents should be included in parole planning.

Concluding Thoughts

We are still punishing the children. Yet, in punishing the children of inmates, we are ultimately punishing ourselves. The ongoing pattern of societal neglect, and ofttimes hostility, comes back to haunt us in terms of creating more social problems such as violence, drug abuse, and mental illness. Ignoring the problem solves nothing. The number of innocent children who are impacted has grown geometrically, and they will be living in our communities for many years to come. In our collective zeal to condemn lawbreakers, we have inadvertently condemned their children. Basic humanitarian values and considerations of fairness demand that we change existing laws, policies, and practices.

Alleviating the plight of the children of incarcerated parents does not excuse the misdeeds of the parents, nor should it be viewed as ignoring the serious social and psychological problems faced by those inmate parents (many of whom were themselves the children of prison inmates). But, this growing social time bomb must be defused with sound and rational public policies. Greater public awareness of crises faced by these families is a good start. Frank re-examinations of criminal justice and child welfare policies that have worsened this problem should proceed immediately.

Judges can play a crucial leadership role in publicizing the inflexibility and dysfunctional aspects of existing sentencing codes. The judiciary can exercise their discretion to promote sentencing alternatives that attempt to preserve the bonds of parents and children. Advocacy and community-based social service agencies can play a key role in proposing meaningful alternative programs. Corrections and welfare officials need to provide greater training to their staff on the plight of these children and their parents. Budgets for remedial programs must be created and sustained.

It is sometimes fashionable in professional or political conversations to speak cynically about "writing off" this generation of incarcerated Americans**.** These spokespersons tell us to invest in the next generation – to provide better health care, more Headstart programs, more after school centers. The plight of the children of America's prisoners shows the obvious vacuousness of these views. **Generations are connected**. You cannot eliminate the parents without profoundly harming their children. Rescuing these children will require far more rational and enlightened legal policies toward their parents. In the end, saving the innocents is one sure way to save our communities and our own families from the cycle of violence that cannot be safely contained by prison walls.

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Barry Krisberg is president of the National Council on Crime and Delinquency. **Carolyn Engel Temin** is a judge of the Court of Common Pleas, First Judicial District, Pennsylvania.

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