

# Children of Incarcerated Parents: Transforming Research into Policy and Best Practice

## ISSUE BRIEF

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### BACKGROUND

The U.S. maintains the claim of having the highest incarceration rates in the world, as every individual state within the union currently incarcerates more persons per capita than any other independent democracy across the globe ([Widra & Herring, 2021](#)). Within the last 50 years, America's carceral facilities have seen over a 500% increase in the number of those in custody ([The Sentencing Project \[SP\], 2023](#)). Although we are beginning to see decreases in this population overall, the population of incarcerated women have skyrocketed by more than [525%](#) between 1980 and 2021. Many of those who are incarcerated are

parents. In state and federal prisons, about [45%](#) of men are fathers, and about [48%](#) of women in federal prisons and [55%](#) in state facilities are mothers. Research show that [one in 14](#)

[American children under age 18](#) (an estimated 5.7 million) have experienced the incarceration of a parent at some point during their lives. While the majority of available research only examine the rates of parental incarceration, incarceration is not the only point in the criminal legal system where

parent-child separation occurs. When we consider the full continuum of the criminal justice process (e.g., arrest, pre-trial detention, probation/parole), the number of children affected by this is significantly larger and rises to an estimated [10 million](#). We also see the overlap of some children with an incarcerated parent who also become subsequently involved in the child welfare system. The number of children placed in foster care as a result of their parent's incarceration is not thoroughly identified through current data collection systems, estimates suggest that this number could fall within the tens of thousands. Research estimates that at least [40%](#) of children in

foster care had been exposed to parental incarceration at some point in their lives.

More than 5 million U.S. children have an incarcerated parent.



**1 in 8**  
POOR  
CHILDREN



**1 in 9**  
BLACK  
CHILDREN



**1 in 14**  
ALL  
CHILDREN

### CHILD OUTCOMES

The children of incarcerated parents have been an overlooked population, and their needs are often unaddressed.

Child development research sheds insight on the impact of trauma resulting from parental separation on the child as a result of both child welfare and parental incarceration. Research show they experience an array of issues including learning disabilities, attention

deficit/ hyperactivity disorder, developmental delays, speech or language problems, higher rate of physical health conditions such as asthma, obesity ([Turney, 2014](#)), depression, symptoms of post-traumatic stress ([Beresford, 2020](#)), and increased antisocial behaviors ([Martin, 2017](#)). It is also estimated that 90% of children with five or more foster care placements engage with the criminal legal system and more than half of all children in foster care will experience arrest or incarceration by age 17 ([Juvenile Law Center, 2018](#)).

### INCARCERATED PARENTS

Parents who are incarcerated face multiple barriers when trying to establish their parental roles and relationship with their children. Their involvement in the criminal legal system can weaken familial bonds and disrupt the family system. The unique circumstances parents must overcome to maintain or reestablish their family bonds while

incarcerated, highlights the need for advocacy and the intervention of public policy. For incarcerated parents whose children are involved in the child welfare system, these barriers are even greater. The Adoptions and Safe Families Act (ASFA) of 1997 implemented the 15/22 month rule which granted states the ability to terminate parental rights (TPR) should parental separation span beyond this allotted time. An investigation of about 3 million national child-welfare cases between 2006 and 2016 revealed that parents who have a child placed in foster care as a result of their incarceration are more likely to have their parental rights terminated, when compared to those who have physically or sexually assaulted their child ([Hager & Flagg, 2018](#)). And 1 in every 8 of these cases, incarcerated parents lose their parental rights, regardless of the seriousness of their offenses, with women prisoners most likely to have their parental rights terminated.

## EXAMPLES OF WHAT CAN BE DONE AT EACH INTERCEPT



### ARREST

At the point of arrest, officers should inquire:

- If the individual being arrested is a parent/primary caregiver
- Whose custody is the child currently in/or at immediate risk as a result of the arrest

This allows police departments to initiate contact with the child welfare office, who can intervene and see to the safety the child while the parent is in their custody

\*Screen for pregnancy/ provide appropriate medical care to ensure that reproductive health/pregnancy needs are being appropriately addressed prior/ after adjudication



### COURT

Judges are well positioned to evaluate a defendant's relationship with their child[ren] and prioritize what should be done in the interest of maintaining a relationship between parent and child

- When possible, community supervision or community-based sentencing
- Proximity sentencing, requiring the Department of Corrections to place parents at facilities of their designated security level that are closest to their children

This encourages frequent visitation/contact



### INCARCERATION

At the point of incarceration, facilities should work to:

- Support quality parenting education courses
- Create a child-friendly visiting area encouraging connection and warmth
- Ensure reasonable cost of telephone/video calls
- Child welfare case workers should ensure the child can have consistent communication/visits with their parent

*Guardian ad Litem* should present the court with plan for visitation, affording parents the opportunity to demonstrate reasonable efforts, limiting the case TPR



### POLICY

- Increasing cross-systems coordination and collaboration for better service delivery
  - Involvement of multiple systems including criminal legal (judiciaries, jail, prisons, law enforcement, probation/parole, the juvenile justice system, etc.), the child welfare system (state and private agencies), community partners, schools, policymakers, and persons with lived
  - Need for local and state-level data integration
- Provide national exemption to ASFA's 15/22 month rule