

# Missouri Legislative Academy

## Issue Brief

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### How Can Missouri Protect the Best Interests of the Child When a Parent is Incarcerated?

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## I. Introduction

This brief builds upon information presented to and gathered by the Missouri Children's Services Commission to assess the impact of parental incarceration on both their children and society as a whole. The first section identifies the needs of children who have an incarcerated mother or father. The next section describes current Missouri initiatives to protect the best interests of these children. The final section suggests what more should be done to protect the children.

## II. What are the effects of parental incarceration on a child?

Children are severely impacted when it is a custodial parent who is incarcerated as evidenced by the fact that children with an incarcerated parent are seven times more likely to become involved in the criminal justice system.<sup>1</sup> Most of the limited data available on the status of children were collected from incarcerated mothers because they are more likely to have been a custodial parent prior to confinement. However, incarceration affects the child when either parent is incarcerated. In most cases, the child's home life is significantly disrupted and the child has a strong emotional reaction to the incarceration. Further, often the child's needs are not recognized or not met, contributing to disruptive and sometimes criminal behavior.

### A. Living Arrangements are usually disrupted.

Often one of the first impacts on children is a disruption in their living arrangements. Because most children live with their mother, it is female prisoners who are most often asked about the status of their children. In Missouri, 78 percent of incarcerated females were parents according to a recent Department of Corrections survey.<sup>3</sup> Comparable surveys have not been conducted with fathers.

**No system exists to identify & track the children of incarcerated parents.**

In an earlier survey by MO Department of Corrections<sup>2</sup>, when asked about the living arrangements of their children, incarcerated women reported that:  
23% live with a spouse or partner  
44% with a grandparent or aunt/uncle  
10% are in DFS custody  
10% other  
13% whereabouts unknown

It is particularly noteworthy that mothers did not know where 13 percent of the children were.

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B. Strong emotional reactions and stigma are common experiences of children with incarcerated parents.

When a parent is locked up, children commonly have strong emotional reactions to the separation. They often feel angry at the parent and guilty that they did not do enough to help the parent. They often feel stigmatized by peers, schools and even their caregivers for being associated with someone who is in prison or jail.

Caregivers often do not have the resources (money, time, knowledge, energy) to help children with their emotional needs. Children usually do not know how to obtain help but most would be reluctant to seek outside help even if they could because they fear the stigma often attached to association with an incarcerated individual.

Children are often left to cope on their own with these strong emotional responses and ongoing stigma. They often become depressed as they withdraw from those around them or they act out their emotions through fighting and defiant behaviors. They are more likely than other children to exhibit poor academic performance, truancy, behavioral problems, drug abuse, delinquency, and early pregnancy.

**Emotional responses are often not addressed and long term negative psychological and behavioral impacts result.**

C. Disruptions and unmet mental health needs often lead to juvenile delinquency.

Nationally, 60% of delinquent youth have a parental incarceration history.<sup>5</sup> While it cannot be conclusively shown that parental incarceration causes juvenile delinquency, the risk factors present in youth with a parental incarceration history can be related to both the experiences growing up with an incarcerated parent and to typical life experiences of juvenile delinquents.

**Adjudicated youth with a parental incarceration history have more troubled pasts and more current behavioral problems requiring greater rehabilitative services.**

In a 2001 sample of 1112 adjudicated youth in Missouri<sup>4</sup>, the 31 percent of the sample who had a parental history of incarceration were significantly more likely to have:

- A parent with substance abuse problems
- Experienced more ineffective parenting
- An out of home placement
- Little positive support
- Long criminal histories
- Committed assaults
- Little motivation to change behaviors

Note that differences in proportions of youth in this sample and from national statistics reflect a difference in type of youth counted. The national data reflect imprisoned youth and the Missouri data includes only a small proportion who were in a detention facility. It is the more serious offenders who are more likely to have the parental incarceration history.

D. The best interests of the child are often not recognized.

The problems described above are made more serious by the fact that the needs and interests of the child of an incarcerated parent are frequently not recognized. To build trust in relationships, children need strong, uninterrupted attachments with caring adults.

To establish a sense of security, they need to experience a minimal amount of disruptions in living arrangements and social relationships. When they do encounter disruptions and experience emotional trauma, they need external coping resources to adapt to extraordinary changes. When these needs are not recognized, the child is placed in greater risk of engaging in behavior that is disruptive and often illegal.

**Children need a supportive, non-stigmatizing environment in which to live and have their needs met.**

### III. What has Missouri done to protect the best interests of the child when a parent is jailed or imprisoned?

In the last several years the Children's Services Commission has identified initiatives around Missouri related to the status of children with incarcerated parents. The major initiatives are detailed below. In addition, in some correctional facilities, children and parents can participate in various programs designed to enhance their relationship.<sup>6</sup>

#### A. Children's Services Commission Children of Incarcerated Parents Task Force

In one of the first such initiatives in the nation, the Children of Incarcerated Parents Task Force was established as a provision of SB720 (1998). Its mission was to improve the lives of children affected by custodial parent incarceration. The co-chairs, Senator Betty Sims and Representative Vicky Riback Wilson, led efforts to identify relevant issues and to recommend legislative and executive changes that would serve the best interests of Missouri's children. In December 2002 the Task Force issued a Report to the General Assembly. The Task Force's work continues in a sub-committee that is emphasizing the development of a system of care and coordination of services. With a caveat, when in the best interests of the child, the Task Force recommends:

- Involvement of the incarcerated parent in custody decisions and facilitation of child visitation during parental incarceration
- Consideration of sentencing alternatives to incarceration<sup>7</sup>
- Revision of relevant policies and programs of state agencies.

#### B. Mothers and Children Together Planning Group

Mothers and Children Together (MCT)<sup>8</sup> is a St. Louis community based organization. This organization received a grant from the National Institute of Corrections to plan how to better keep mothers and children connected during incarceration. Over an 18 month period, public and private stakeholders met frequently and identified five initiatives for change in St. Louis. If implemented, these changes could serve as a model for the state.

These initiatives are:

- Develop a system to identify affected children, their needs, and resources available to meet those needs
- Overcome confidentiality barriers that inhibit inter-agency collaborations

- Enhance family connections through visits and phone calls
- Build public and institutional support through public information campaigns on the impacts of parental incarceration
- Ensure the availability of comprehensive, coordinated services to benefit the children through the establishment of an inter-agency communication network.

#### C. State-Level Administrative Changes

While none of the following changes are a direct result of the Task Force activities, the Task Force certainly provided impetus for the first two changes listed below. The latter two were motivated by other initiatives and later recognized as important components of statewide efforts to address the needs of this group of children.

- Department of Social Services/Family Support Division has clarified custody hearing procedures for incarcerated parents (approximately 10% of the children of incarcerated parents are in DFS custody).
- Department of Corrections hired a Woman’s Program Manager, Julie Rollins, to coordinate services for women and their children.
- Department of Mental Health supports MO MAYSI (Massachusetts Youth Screening Inventory), a project which assesses the mental health needs of youth admitted to Division of Youth Services programs. In the initial year, just five percent indicated no mental health risk (n=677).<sup>9</sup>
- Office of State Courts Administrator has implemented a statewide Juvenile Offender Risk and Needs Assessment and Classification System. It provides court personnel with information on youthful offenders referred to juvenile and family court. Parental incarceration is included as a risk factor.

#### IV. What more can Missouri do to protect the best interests of the child when a parent is incarcerated?

As in most of the country, Missouri is only beginning to recognize that children with incarcerated parents have special needs. The following recommendations were developed to begin to meet those needs. Recommendations A-C originate in the Task Force Report and the Mothers and Children Together Planning Group Report. Recommendation D was derived from interviews conducted by Dannerbeck with both youth and incarcerated mothers. Unless otherwise noted, these recommendations involve changes in bureaucratic process and no additional funds.

##### A. Identify the children and assess their level of well-being

- Develop a standardized process to identify children at the time of parental arrest
- Institute an interagency system of care to meet the needs of the children.

##### B. In a safe environment, provide children with supports needed to cope with parental incarceration.

- Provide support services in all communities, including rural ones (could require additional funds)

- Identify and coordinate services for dependent children and their caregivers
- Develop a guide to inform involved parties (parents, caregivers, attorneys, etc.) about custody and guardianship issues and supportive resources.

C. Recognize the role of sentencing alternatives and the need for supportive resources in protecting the best interests of the child.

Sentencing alternatives for non-violent offenders, such as drug courts, may serve the best interests of children if certain factors are considered:

- The prior relationship of parent/child
- The extent participation in an alternative program will minimize disruptions for the child
- The availability of resources to address relationship issues between adult, family and children and to counsel children and caregivers (could require additional funds).

D. Reduce the harm of the unintended consequences of federal policies designed to protect the best interests of children.

- Because of the Adoption and Safe Families Act of 1997, many incarcerated parents lose parental rights. No policies or procedures have been developed to document the ways they keep in contact with their children after termination of parental rights. Developing procedures to document continued parent/child interactions that a judge will accept is in the best interests of the child when the child has a close attachment to the parent. The Department of Social Services /Division of Family Services is currently collaborating with other stakeholders to create a manual for incarcerated parents. The manual will include information about this act and how to document continued interactions while in prison.
- Because of the Child Support Enforcement Act, parents may end up in prison for failure to pay child support. The child may feel an enormous burden of guilt and responsibility for being the cause of the parent's confinement. Finding alternatives to incarceration for these parents would be in the best interests of the child. (involves statutory change)
- Supportive well-designed mentoring programs will be in the best interests of the child but a new federal initiative to support mentoring programs for children with incarcerated parents may ultimately become another disruption in the life of the child if the mentor can or will not make a long term commitment to the child. Designing and supporting such mentoring programs will require collaboration between researchers who can identify critical needs of the children, agencies who can offer program elements to meet those needs and who have experience in recruiting and supporting mentors, and funders willing to recognize that specialized mentoring programs may cost more than traditional mentoring services.

## V. Conclusion

One of the most effective ways to halt the further expansion of the prison population is to identify and address the needs of young people who are at-risk of engaging in criminal behavior. The most at-risk of these at-risk children are those who have an incarcerated parent because they often face severe disruptions and emotional trauma as a result of a parent's incarceration. By putting their needs for stability, security, and coping resources at the forefront of efforts to address parental incarceration, Missouri can protect the best interests of this group of at-risk children and stop the intergenerational cycle of incarceration.

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<sup>1</sup> Mumola, C. 2002. Incarcerated parents and their children, U.S. Bureau of Justice Statistics. U.S. Dept. of Justice, Washington, D.C.

<sup>2</sup> Missouri Dept. of Corrections. 1999. Survey of Female Offenders. Jefferson City, MO.

<sup>3</sup> Missouri Dept. of Corrections. 2002. Status report on women offenders, Jefferson City, MO.

<sup>4</sup> Office of State Courts Administrator J-TRAC Dataset, 2001, Jefferson City, MO; Dannerbeck, A. 2003. Differences between Delinquent Youth with and without a Parental History of Incarceration. School of Social Work, University of Missouri, Columbia, MO.

<sup>5</sup> Mumola, 2002.

<sup>6</sup> See for instance, Project Living Interactive Family Education(L.I.F.E.) from University Outreach and Extension <http://outreach.missouri.edu/fcrp/lifeevaluation/>

<sup>7</sup> For more on sentencing alternatives see Missouri SB 5 (Senator Caskey/Harold Mayer, 2003); Rosenfeld, R. 2002. The Cost of Incarceration in Missouri and the Benefits of Sentencing Alternatives, Missouri Legislative Academy, Issue Brief 02-03; Alarid, L. 2002. Should Missouri Continue to Incarcerate Non-violent Offenders? Missouri Legislative Academy, Issue Brief 02-01.

<sup>8</sup> Mothers and Children Together, 1408 South 10<sup>th</sup> St., St. Louis, MO 63104

<sup>9</sup> Osterlind, S., Svoboda, S. & Koller, James. 2002. MAYSI-2 Detention Report. Center for the Advancement of Mental Health Practices in Schools, Univ. of MO and Missouri Dept. Of Mental Health, Jefferson City, MO.

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