



## **Child and Family Impact Assessments in Court: Implications for Policy and Practice**

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## Executive Summary

Little is known about the long-term effects on the families who have a family member in jail, the effects on parent-child relationships or, more importantly, what the real consequences are for children. This report examines the literature regarding the impact of imprisonment on children as well as the views of key stakeholders regarding the benefits and logistics of highlighting this impact through Child or Family Impact Statements in court. The purpose of such Statements is for judges to know the impact their decisions are likely to have on an offender's family. This is mainly in terms of the effect on children, in accordance with article 3.1 of the UN Convention on the Rights of the Child.

Numerous children live with the stigma and the consequent outcomes of having a parent in custody. These effects can include post-traumatic stress disorder; anxiety; poor concentration; sleeping problems; flashbacks; a high probability of moving between different caregivers; problems in school and falling deeper into poverty. The imprisonment of a parent leaves a tremendous mark on a child's life, and if the child doesn't have appropriate levels of support, it will prove very difficult for the child to cope. The children who suffer because of parental imprisonment frequently exhibit coping problems, stigma, embarrassment, fear, anxiety, melancholy, regressive behaviour, anger, blame, loneliness, defiance and behavioural misconduct. The long-term consequences of parental imprisonment are enormous.

Some children are resilient and can overcome this traumatic event. However, some factors need to be present in the child's life for the adverse situation to be successfully overcome, such as family support; positive involvement of the parents; social support; total support from at least one parent or carer; good experiences at school; feelings of capacity and confidence; capacity to help others; problem-solving, emotional and coping skills, and extra-curricular activities. However, stressful events like parental imprisonment; elevated parental disagreement; parental separation; inconsistent supervision; parent-child hostility; child abuse; poor friendship networks; and parents with psychological disorders, alcohol or drug problems, or criminal histories, all reduce the resilience of children.

The Scottish Government highlights the importance of resilience in the well-being of children and young people in its *Getting It Right for Every Child* agenda. With this in mind, we can see short and long-term consequences for children who have a parent in jail, especially

if they do not have good quality support. In fact, it is urgent to intervene early “*for the benefit of the offender’s children*” and in relation to the “*long term impact and costs for society.*”

Despite the consequences for the children, interviewees recognised that it is not easy for the judges take a decision when they have to balance the crime, the punishment, safety and impact on the family. For that reason, it is important to standardise how the child/family impact should be taken into consideration. One suggestion to facilitate this decision is to assess the impact on all the minor children when their primary caregiver is sentenced. In this way, judges can more easily balance the range of an offender’s circumstances.

Interviewees agreed that judges should be aware of the impact of parental imprisonment in their decisions and that this should be taken into account on a case by case basis. They commented that this may require formal guidelines to create a standard way to ensure such needs are taken into account. Some also commented, however, that in spite of these consequences being relevant to the court, they may not be as relevant as other factors, such as the seriousness of the offence. The sentence is given as a punishment to the offender and proportional to the offence, without regard to the offender’s children/family.

Interviewees disagreed about who should conduct Child/Family Impact Assessments and about the cases in which they should be used (e.g. for primary carers only or for any parent; for sentencing decisions only or for any custody decision). However, they agreed that such Statements should highlight the needs of the child both for the court’s use and so that such needs could be addressed. They also agreed that the current system of Social Enquiry Reports was not sufficient to identify and address this need.

The impact of parental imprisonment on children will depend on the contact the parent has with the child and whether he or she is the primary caregiver. It is crucial to know about the family environment before the arrest to understand what impact a parent’s imprisonment is likely to have. If we take into account that in Scotland, per year, more children experience a parent’s imprisonment than a parent’s divorce, it is very important to give special attention to the children’s views and make them heard.

This work is far from being finished. Families Outside is now conducting research to explore the views and experiences of children and young people who have had a family member sent to prison. Beyond this, we need to develop an assessment tool to conduct Child/Family Impact Assessments and then try it out in practice. Only then will we know whether the courts will take this additional information into account and, indeed, whether the child’s interests are paramount for any decision that affects them.

## Introduction

*“Prison is a family experience”*

(Loucks, 2004, p. 4)

Throughout history has been an ongoing debate about the Criminal Justice System and the consequences of imprisonment. In spite of the first recorded study of prisoners and their families dating from 1965, there is still not enough awareness of the impact on children who face the experience of having a parent in jail. As a consequence of the little recognition of the collateral effects, and because of the few empirical studies (Hagan & Dinovitzer, 1999), the question remains about what the real outcomes are to the children and family when a relative goes to prison.

In some cases, the incarceration of a parent is beneficial for the children, especially if the parent is negligent, abusive or even aggressive. But how often or to what extent is this separation of benefit to the child? Sometimes the parental incarceration could bring many more negative consequences and difficulties for the children than they are already experiencing (Hagan & Dinovitzer, 1999).

In fact, little is known about the long-term effects on the families who have a family member in jail (Loucks, 2004; Seymour & Hairston, 1998) or about the effects on parent-child relationships (Landreth & Lobaugh, 1998) and, more importantly, what the real consequences on children are (Boswell, 2002; Cunningham, 2001; Gabel, 1992a; Landreth & Lobaugh, 1998). Research relating to the impact of parental imprisonment on children is still in its early stages. This lack of knowledge about the impact on children is partly because few studies have examined children directly (Jarvis, 2007; Johnston, 1995a; Gabel, 1992b), and because of the few high-quality studies in this area (Seymour & Hairston, 1998). Those that have been developed are often based on small or regional samples, and for that reason the results cannot be applied universally (Gabel, 1992b; Gaudin & Sutphen, 1993; Robertson, 2007) or they are based on self-reporting by imprisoned parents or caregivers (Gabel, 1992b; Gaudin & Sutphen, 1993; Johnston, 1995a). We know, however, that numerous problems arise from having more children affected by the imprisonment of a parent.

The impact of parental imprisonment on children is not easy to understand, because the outcomes could also be related to other issues, such as parent-child separation, the crime committed, the time preceding the arrest, instability and poor care at home (Travis, Solomon & Waul, 2001). The consequences will also depend on the age of the child, duration of the

separation, the number and quality of previous separations, the family/community support, and stigma from the community (Gaudin & Sutphen, 1993; Seymour, 1998; The Osborne Association, 1993). This shortage of information could reflect the lack of educational and community interest in the impact of parental imprisonment on children (Murray & Farrington, 2008).

Rates of imprisonment have been increasing in the industrialised countries, especially in United States of America (USA) and United Kingdom (UK) (Walmsley, 2005). The consequence of this is that more children are living with the stigma and the outcomes of having an arrested parent (Bernstein, 2005). These effects include post-traumatic stress disorder, anxiety, attention/concentration and sleeping problems, flashbacks, high probability of moving between different caregivers, problems in school and falling deeper into poverty (*ibid.*).

With this in mind, and following discussions between a number of child-focused organisations and the Scottish Government about the use of Child/Family Impact Statements for sentencing decisions, Families Outside decided to conduct research to look further into this. The purpose of such Statements is for judges to know the impact their decisions are likely to have on an offender's family. This is mainly in terms of the impact on children, in accordance with the UN Convention on the Rights of the Child. Article 3.1 of the Convention states that a child's interests must be taken into account regarding any decision that affects them. Imprisonment of a parent is one such decision, yet courts do not routinely request such information.

Because our main objective is to understand more about the impact of parental imprisonment on children, the first part of this report presents a literature review about what is known about the children of incarcerated parents. This section also presents the short- and long-term consequences of parental imprisonment on children and the impact on the family. The second chapter looks specifically at resilience in children. The third part of this research is specifically for our findings, namely the responses to interviews. Finally, the report finishes with some conclusions and proposed next steps for a future research.

## Chapter I: Children and Imprisonment

### 1. What do we know about the children of incarcerated parents?

*“But a child is not on their own.  
The family is the principal guide to the child through the journey”*  
(McConnell, Deacon & Baillie, 2001, p. 14).

It is well known that imprisonment has many consequences for prisoners, such as fear of loneliness; rejection and loss (Bouregba, 1992; Blanco, 1992); fear of the financial problems that their family could face (Gabel, 1992a); fear of losing their partners, and loss of the relationship they have with them, and with their children, before the arrest (Lanier, 1993). Hairston (1991) adds the fear that someone will take his or her place as the children’s parent. Probably the most painful outcome for prisoners, however, is to be separated from their families (Loucks, 2004).

Another concern for prisoners is the deterioration of the relationship they may have with their children. This apprehension is more evident if the relationship with the other partner is declining, because this will have a subsequent negative impact on the relationship with the child (Miller, 2002). Usually the best way to predict if the child will continue visiting a father in prison regularly is the relationship the parents have with each other (*ibid.*).

Other symptoms of being imprisoned can be cognitive or emotional problems and/or problems with interpersonal relations (Shorer, 1965; Heather, 1977). Lanier (1993) talks about depression or elevated propensity for depression, when the incarcerated father perceives that the relationship they have with their family/child before the arrest is going to be compromised.

The literature suggests that prisoners who were able to maintain family attachments were up to six more times less likely to commit a later offence (Holt & Miller, 1972; Hairston, 1991). Family ties also allowed access to broader social support (Hairston, 2002), better success when they were released (Hairston, 1988), and prevention of recidivism and criminal behaviour (Hairston, 2002).

All contacts between prisoners and their families are therefore very important, especially because the incarcerated person knows that the family/child has not forgotten them (Hairston, 2002).

But what are the consequences for the family and children of the prisoner?

Almost ten million children in the world have a parent in prison, children who frequently come from the most disadvantaged and vulnerable sections of society (Robertson, 2007). More than 1.5 million children in the U.S.A. have a parent in jail (Miller, 2002). In Australia, the numbers are estimated at 145,000 children under the age of 16 with a parent in custody (Robertson, 2007). In Brazil, there are almost 20,000 children have a mother in jail, and many more have a father in prison (Howard, 2003).

In the United Kingdom, these numbers rise to 150,000 children, of which 13,500 were estimated to be in Scotland in 2002 (Scottish Prison Service, 2002). However, each year in the UK, more children are affected by parental imprisonment than by divorce (Action for Prisoners' Families *et al.*, 2008). Annually, in Scotland the number of children who have a parent in jail is now estimated to be 16,500 (Families Outside, 2009).

It is clear that there are numerous cases of children living with the stigma and the consequent outcomes of having a parent in custody (Bernstein, 2005). These effects can include post-traumatic stress disorder, anxiety, attention/concentration and sleeping problems, flashbacks, high probability of having to move between different caregivers, problems in school and falling deeper into poverty (*ibid.*).

### 1.1 *Impact on children*

The imprisonment of a parent leaves a tremendous mark on a child's life, and if the child doesn't have appropriate levels of support, it will prove very difficult for the child to get by. Robertson (2007) describes these children as the 'beyond victims'.

The impact of the incarcerated parents on the children is not a single process, but a continuing one (Parke & Clark-Stewart, 2002), and the long-term impact depends on which parent is arrested (Simmons, 2003). If the mother is arrested, and she is the primary or sole carer, then the probability of disruption on the children's lives is higher. This not only relates to the change of the carer, but also to the changing of home, friends, school and sometimes separation from siblings (*ibid.*). Another consequence is the fact that grandparents as carers (usually grandmothers) may be old and/or ill and with restricted economic resources. These grandmothers have to deal at the same time with the emotional and social problems of having a son or daughter in jail along with supporting children of separated parents (*ibid.*).

Unfortunately, the effect the parental imprisonment brings to children is hardly ever considered in the criminal justice process (Robertson, 2007). Police officers do not have to think about the later consequences to the children when they arrest a person at home during the night, although the children find it very disturbing (*ibid.*). Judges, according to Robertson, also do not have to consider the offender as a person with caring responsibilities.

Parke and Clark-Stewart (2002) emphasise the importance of knowing about how family life was before the arrest, as children are not always living with the parents before their incarceration. This information could be relevant for the child's future. The authors state that just half of the incarcerated parents lived with their children before the arrest. While this does not mean that parental incarceration will not have a negative impact on the children, the impact will be different if the children lived with the parents before the arrest (*ibid.*).

All of the literature describes several consequences of having a parent incarcerated, especially in terms of emotional health and wellbeing (Johnston, 1995a and 1995b). Jarvis (2007) states that the first study about incarcerated parents was conducted in England in 1965. In this work, the author concluded that 20% of the children with incarcerated parents have behavioural problems (Morris, 1965).

Parental incarceration can cause strong reactions in children that can develop into unhappiness, annoyance, anxiety, loss (Robertson, 2007), an increase of risks to development (Dallaire, 2007; Myers *et al.*, 1999; Thompson & Harm, 2000), and disruption in the mother-child relationship (Thompson & Harm, 2000). Imprisonment therefore produces several negative consequences to the children. Some siblings are separated when a parent (particularly a mother) is incarcerated (King, 1994); and many children suffer from instability and insecurity, self-blame (Payne, 1997), rejection, guilt and feelings of deception (Miller, 2002).

Murray and Farrington (2008) add the fact that, if the parents do not demonstrate appropriate behaviours and are therefore not good role models, there is a very strong risk of negative consequences in the child's life. These effects could be: disruptive tendencies, criminal behaviour, mental health problems, substance misuse, reduced school achievement and unemployment. All these consequences could emerge because of the several traumas related to parental imprisonment, such as the separation of parent and child, awareness of the parental criminality, poverty, social stigma and anxiety in an attempt to preserve contact with the arrested parent (*ibid.*).



After analysing several longitudinal studies, Murray and Farrington (2008) concluded that the children of incarcerated parents have three times more the probability of developing anti-social behaviour compared to other children of the same age. Another study, conducted by Gabel and Schindedecker (1995), demonstrated that the sons of imprisoned parents are more aggressive than other children. Girls apparently have more of a propensity to attention deficit problems (*ibid.*; also Sack, 1977). The literature also shows a strong relation between parental absences and future delinquency on children (Larzelere & Patterson, 1990).

Fritsch and Burkhead (1981) also found problems with the behaviour of children of incarcerated parents. In this investigation, they asked the parents if the behaviour of their children was different after their arrest, and two-thirds of the prisoners said they had noticed behaviour problems in their child. Men who were interviewed described behavioural problems such as obedience issues in school, absenteeism and criminal behaviour. The majority of the women said their children had developed symptoms of being left behind, being frightened and a decline in school results (*ibid.*). The authors concluded that the children of incarcerated mothers tend to present more internalising problems, whereas the boys of incarcerated fathers were more likely to exhibit externalising behaviour (*ibid.*).

Fritsch and Burkhead (1981) also describe the children of confined men as more likely to externalise problems, while children of maternal imprisonment have a propensity to present more internalising behaviours, regardless of the child's gender. Lowenstein (1986) confirmed the symptoms of children with imprisoned fathers. The study was conducted in Israel with 118 wives of first-time prisoners. These women described their children as having emotional and health problems, lower results in school and declining relationships with close family. These findings suggested that the children were affected by their father's incarceration (*ibid.*).

Johnston (1992) studied the impact of parental arrest, particularly on the child's development, through observations during school. Three factors were more frequent in these children, namely parent-child separation, ongoing traumatic stress, and an inadequate quality of care (Johnston, 1992). Another study developed in Northern Ireland found that 63% of the children of prisoners had coping difficulties (McEvoy *et al.*, 1999), while research elsewhere noted that these children presented behavioural problems in school (Sack, 1977; Loucks, 2004), poor performance (Friedman & Esselstyn, 1965), stigma and embarrassment (Loucks, 2004; Cunningham, 2001; Lloyd, 1995).

Others authors add that parental incarceration produces, in children, fright, apprehension, melancholy, regressive behaviour and physical and health problems (Wright & Seymour,

2000). Cunningham (2001) noted that some children can also think that they have done something wrong to cause their parent's absence. This way of thinking could contribute to feelings of fury, embarrassment, blame and loneliness (*ibid.*).

Johnston (1995a) found that the normal development of children could be affected by the detention of a parent. The consequence of that is further violent conduct, learning problems and maladaptive and anti-social behaviour. Defiance and behavioural misconduct are also outcomes related to having a parent in jail (Wilmer, Marks & Pogue, 1966). In Scotland, Peart and Asquith (1992) emphasised that the experience of having a parent under arrest is very disturbing. Children frequently feel loss and uncertainty stemming from the emotional and economic change (*ibid.*).

From another perspective, Boswell (2002) studied the feelings and experiences of 25 children under age 18 of incarcerated fathers. The children described a mix of positive (seeing the father) and negative feelings related to the visits to the prison, such as depression, anguish, hope, fear, and all the alterations that occur in their life after their fathers' arrest (*ibid.*). Symptoms could also present if the children have to give up activities such as playing in the football team if they want to visit the parent in prison (Cunningham, 2001). Feelings the children described included: "*shocked*", "*really difficult*", "*lots of tension in the house*", "*I feel sad*", "*I really missed him and I used to cry a lot*" (*ibid.* p. 18).

Boswell (2002) found that children had different experiences, depending of course on their age, gender, life experiences and progress. Depending on their age, children could have different attitudes towards their father's imprisonment. For instance, the oldest child could have his own opinion of their father's behaviour and dealing with the associated tensions, while the youngest children could be more worried about their missing father (*ibid.*). Besides these feelings, any child is affected by the loss of their father, and more than most have related symptoms such as fear and impatience about the day that the father returns to home (*ibid.*).

#### 1.1.1 Short-term effects

Parke and Clark-Stewart (2002) noted that, to comprehend fully the impact on children, it is very important to distinguish between the short and long-term effects of parental imprisonment. The short-term effects will be the direct consequences of the arrest episode and subsequent separation, while the long-term effects could be positive and negative feelings arising during the period of incarceration (*ibid.*). This section highlights some of these issues.

- The arrest: One in five children witnesses the arrest of the parent (Johnson, 1991). More than a half who observe this are less than seven years old and have the arrested mother as primary carer (Parke & Clark-Stewart, 2002).

Children who witnessed a mother's arrest frequently presented symptoms such as nightmares and flashbacks related to the arrest episode (Kampfner, 1995). If the arrest occurs while children are at school, they may arrive home to find an empty house, which can be very traumatic (Simmons, 2003).

After the arrest, children often feel fear, anger, loss, guilt, resentment, depression, and withdrawal (Lee, 2005), as well as sleeping problems, declining academic results, school absenteeism, hostility and disturbed behaviour (Woldoff & Washington, 2008; Murray & Farrington, 2008).

Children of incarcerated parents are six times more likely to develop aggressive behaviour and potentially to follow in their parents' footsteps (Arditti, Lambert-Schute & Joest, 2003; Lee, 2005). Furthermore, the children sometimes felt other people treated them differently, such as teachers and peers (Braman, 2004).

- Telling the truth to the children: Authors disagree about telling the truth about the parent's arrest to a child (Parke & Clark-Stewart, 2002). Some authors suggest that is better for the child not to know the real truth in order to protect them from the trauma related to the separation (Becker & Margolin, 1967). Others disagree and say that it is worse for the children having very close people reluctant to discuss the parent's imprisonment and, in doing so, they could intensify the emotional distress of the child (Snyder-Joy & Carlo, 1998).

The method of telling a child about the imprisonment of the parent has some constraints, for instance explaining where the parent is, why he/she was arrested, why they can't see him/her when they want, and why, when they visit the parent, he or she isn't allowed to do certain things. These are a few examples of many questions that the child may have, and sometimes it is difficult to answer (Loucks, 2004).

To prevent or ensure that a child suffers minimal consequences of having a parent in jail, it is usually better to tell the child what is going to be different from now on. Almost all children handle things better when they know what is

happening – in other words, when they receive a correct and adequate explanation (European Action Research Committee on the Children of Imprisoned Parents, 1996).

Instead of hiding what has happened from the children, it is very important to tell them about the parent's arrest and to talk to them about what is happening. In doing that, the parents have the assurance that the child has the necessary support (Prisoners' Families Helpline, 2009). In the beginning, the child's behaviour may be different, but this is perfectly normal, as they have just experienced something that will change the life of all of the family (*ibid.*).

Having that conversation avoids the trauma of children being told by another person or becoming aware in another way that they have a parent in custody. This also avoids the confusion in the child's mind of not understanding what is happening (*ibid.*) and allows the children to know what to expect in the future in terms of contact with the incarcerated parent (Howard, 2000). It also allows them to ask questions and to discuss their concerns openly. For young children it is normally the confusion that increases their distress (*ibid.*).

In terms of how to tell a child, the Prisoners' Families Helpline (2009) says there is not a right way or correct time to tell the child. That will depend on the age and the nature of the relationship that the parent/carer has with them.

#### 1.1.2 Long-term effects

- **Incarceration:** When a parent is arrested and the child had an insecure attachment with the parent, the child could develop anxiety, withdrawal, embarrassment, blame, increased propensity to exhibit anger, violent behaviour, and opposition (Parke & Clark-Stewart, 2002), as well as reduced cognitive capacities, poor relationships (Sroufe, 1988) and emotional and/or psychological problems (Baunach, 1985). Some children also present psychosomatic disorders, such as eating problems, and younger child can also begin to externalise their problems (Parke & Clark-Stewart, 2002).
- **School, children and incarcerated parents:** Children of school age who have parents arrested tend to reveal problems in school and with peer relationships. For instance, Sack and colleagues (1976) showed that half of children with

parents in jail had problems in school, such as aggression and low academic achievement. A smaller proportion of younger children (16%) tends to present with temporary phobias and may feel reluctant to go to school in the weeks following the arrest (*ibid.*). Phillips and colleagues (2002) discovered that the adolescents of incarcerated parents have a higher probability of being expelled or suspended from school and are also likely to be involved in the future in criminal behaviour.

Stanton (1980) also found problems in school of children of arrested mothers, such as 70% of children showing low academic achievement and 5% displaying behavioural problems in the classroom.

- Gender Effects: Both boys and girls are affected by the parental imprisonment, but the way in which they manifest this is different. Boys seem to be more susceptible to stressful alterations than girls, but this evidence is not very clear (Parke & Clark-Stewart, 2002). For instance, boys are more likely to present external problems such as delinquency (Sack, 1977), and the girls, internal problems such as anxiety and depression (Cummings *et al.*, 2000).

Finally, all children need good care and support. However, when we are dealing with a child who has a prisoner parent, these attentions have to be increased, especially as the first day and week could be the most unpleasant time for them (Christiensen, 2001). For the imprisonment of the parent not to have the worst impact on the children, it is essential to give them the correct explanations of the detention in an age-appropriate way (Grimshaw & King, 2002).

### 1.2 *Children of incarcerated mothers*

The children of imprisoned parents are not simple to characterise. Their situation depends on many things, such as which country they live in and the culture in which the children are raised (Wolleswinkel, 2002). However, many children with a parent in jail have to deal with two opposing feelings: the first one is that they may miss their parents; the other is dealing with the social stigma (*ibid.*).

Many imprisoned parents are not married (38%; Mumola, 2000), and between 25 to 28% are divorced or separated (Parke & Clark-Stewart, 2002). Loper's (2006) findings corroborate this, showing that 70% of incarcerated mothers are not married. However, the majority of incarcerated parents are fathers (Wolleswinkel, 2002), and several have children from more than one partner (Hairston, 1995). These children are also very young: about 43% are less than seven years old, and 46% are between 7 and 12 years (Dallao, 1997). Parke and Clark-Stewart (2002) estimate that about 58% of prisoners' children are under the age of ten.

What happens to children with a parent in jail will depend on who is the primary carer of the child and which parent is imprisoned (Cunningham, 2001). When the father is taken into custody, the probability of the child remaining in the care of the other parent is higher. However, when the mother is in prison, and family support such as grandparents or other family members does not exist (Cunningham, 2001), the child is more likely to face several placements (Gabel & Johnston, 1995; Seymour, 1998; Centre for Children and Families in the Justice System, 2003; Simmons, 2003) or to go into foster care (Centre for Children and Families in the Justice System, 2003).

Therefore, it is essential when a parent is arrested to know if the parent is the primary carer and if the children have family support, not just for the time that they are going to be without their parent, but also to give the child the necessary longer-term care.

In the US between 1928 and 1976, the number of women in prison remained stable except during the war years (Bureau of Justice Statistics, 2006). However, the number of women in prison almost doubled in the end of 1970, tripled from 1980 to 1990, and quadrupled from 1986 to 2006 (*ibid.*). In the ten years from 1991 to 2000, the number of incarcerated mothers therefore grew more quickly than the number of fathers in jail (Parke & Clark-Stewart, 2002). Similar patterns are evident in the UK. The Child Welfare League of America (2005) argues that this increase represents a dangerous problem for the structure and function of families.

Again in the US (where most such information is available), about two-thirds of incarcerated mothers were the parents and also the primary carers of children before their arrest (Simmons, 2003). Merely 44% of the arrested fathers lived with their children before the imprisonment, compared to 64% of mothers (Mumola, 2000). In US, almost four out of five imprisoned women are mothers (American Correctional Association, 1990; Beckerman, 1994; Harm, 1992). In 1996, almost 200,000 children had a mother in prison, and in 70% of the cases the mothers were the primary caregivers (Greene *et al.*, 2000). Despite this, mothers

are considered a minority population in jail (*ibid.*; Wolleswinkel, 2002). Many of them come from minority ethnic groups, are single mothers and they are the principal carers of the child (Wolleswinkel, 2002).

With regard to the imprisonment, according to Rasche (2000), the first cost of being a mother in jail is having to be separated from children. The outcomes that this imprisonment could have for the children, on the other hand, are considered the secondary costs. Even though they have been recognised, they still are incalculable (Henriques, 1996; McGowan & Blumenthal, 1978).

In spite of the frequent contact between the children and the mother previously (Martin, 1997), Bloom and Steinhart (1993) found that 54% of the children never visited their mothers in jail. Consequently, the incarcerated women could feel frustration when they try to preserve the relationship with their children (*ibid.*). They often feel the separation as a stressful situation which threatens their self-esteem and makes them see themselves as a bad parent (Dodge & Pogrebin, 2001).

In order to assess the symptoms of the incarcerated mothers, Fogel and Martin (1992) compared the symptoms between incarcerated mothers and non-mothers also in prison. The results suggest that, in the beginning of the incarceration, both groups of women exhibit feelings such as anxiety and depression. After six weeks of incarceration, these symptoms disappear in the non-mothers. The authors explained that the continued symptoms in the incarcerated mothers stemmed from the separation from their children (Fogel & Martin, 1992). However, Hurley and Dunne (1991) did not find any difference in health and depression between incarcerated mothers and non-mothers.

Loper (2006) developed a study in which he found differences in the criminal behaviour between mothers and non-mothers. The incarcerated mothers were more frequently in prison because of property or drug offences, and only a few were in prison because of violent offences. The non-mothers were more often convicted for homicides, whilst the mothers are more inclined to have a prior or present drug offence. The incarcerated mothers had moderately less violent histories when compared with the non-mothers but also had a considerable drug infringement history (*ibid.*).

Loper (2006) states that these results do not sustain the belief that being a mother in jail is worse than staying in prison and not being a mother. However, Loper noted the importance of developing parenting programmes for the mothers who are experiencing raised levels of parenting stress associated with adjustment problems.

The increased numbers of women being incarcerated led to the identification of the problems faced by mothers in prison. As a consequence, parenting programmes, special visitation areas and nurseries in prison were developed or reintroduced (Kauffman, 2001; Loper & Tuerk, 2006; Snyder *et al.*, 2001).

Murray and Farrington (2008) found that children might be more affected by parental imprisonment if it is a mother who is in jail and if the prison sentence is for a long period of time. Many children of incarcerated mothers are more likely to experience increased levels of poverty, problems in school and less academic success (Child Welfare League of America, 2005). The separation of the carer, poverty and low academic achievement are risk factors that lead to the children having a higher probability of developing psychopathology (Broidy *et al.*, 2003; Sameroff *et al.*, 2003) and participating in criminal behaviour (Broidy *et al.*, 2003; Sameroff *et al.*, 2003; Centre for Children and Families in the Justice System, 2003).

Children often present emotional and psychological consequences of having a mother in jail, such as the trauma of separation and stigma (Seymour, 1998; Simmons, 2000). Where the incarceration is one of a series of successive separation or disruptions in the relationship between mother and child, however, and the child is more accustomed to these, the impact is likely to be much slighter (Johnston, 1995a). Problems with destabilisation and disruption are frequent in children of incarcerated mothers (Centre for Children and Families in the Justice System, 2003).

Some authors recommend that it is very important for incarcerated mothers to assume responsibility of their children after their release (Prendergast *et al.*, 1995). However, this does not always occur. For instance, if the child has been placed in foster care or state custody, the probability of the mother demonstrating after release that she is capable of taking care of the children is reduced (Pollock-Byrne, 1992).

### 1.3 *Children of incarcerated fathers*

Some authors highlight the fact that there is little information about fathers in prison. This may be because of the assumption that the mother is the primary carer of the child, which sometimes puts the father in a secondary position (Parke & Clark-Stewart, 2002). However, when a father is in prison it is more probable that his family will visit than when it is the mother who is in jail (*ibid.*). The research suggests two different explanations for this



occurrence (cf. Parke & Clark-Stewart, 2002). First, only small numbers of correctional institutions for women exist, and for that reason many women stay very far from home and therefore from their children. Second, there is a high probability that the children of incarcerated women will go into a foster care rather than into the care of a father.

The Children of Incarcerated Parents Survey (2000), carried out in Oregon, looked at the care of the children after a parent's arrest. It discovered that 36% of the children who have a mother in jail live currently with the father, 54% live with another family member, and finally 15% reside in the foster care. When it is the father who is incarcerated, 81% of the children in the study live with the mother, 14% reside with a family member and 5% are in foster care (Children of Incarcerated Parents Project, 2002).

In general, it is important for the psychological and emotional health of the child that a good relationship with both parents exists (Rosenberg & Wilcox, 2006). The fathers are very important for a child's appropriate and healthy development, as their involvement contributes to the child's positive personal growth (Popenoe, 1996). This of course reflects the ideal situation; not all parental relationships are positive and beneficial, nor do positive role models always fit into traditional family structures.

The good relationship between the father and the child is influenced by the good relationship between both parents. For instance, if the father has a positive relationship with the mother, there is an expectation that he spends more time and becomes more involved with the child. The same happens with the mother, so together they can be conscientious, affectionate and provide security (Lamb, 2002). This kind of relationship will bring another advantage to the future of sons, if the father treats them well and shows respect to the mother. He is teaching a child to become a capable man and to treat women in an appropriate manner, which in turn reduces the probability of the child becoming aggressive with women (Rosenberg & Wilcox, 2006). In addition, a daughter with an appropriate male role model is capable of seeing what she should expect from a man and therefore reduces the risk that she will be involved in violent relationships in the future (Gable *et al.*, 1994).

## **2. Impact on Family**

The literature tells us that the impact of imprisonment on the family is multi-faceted and diverse, and one of the first consequences is the stigma in the community (Miller, 2002). Fishman (1981) notes that often the partners of imprisoned men feel that they are in jail too.

The family of the incarcerated person experiences the consequence of having someone in jail. The outcomes are many, such as social stigma, fear of the revelation, problems of health, and depression (Grimshaw & King, 2002; Hennebel *et al.*, 2002). Most important is that most of them suffer the consequences as if they had committed a crime too (Comfort, 2003).

Other concerns of having a family member incarcerated are the financial problems related to the costs of the whole process, the house, and expenses to maintain contact with and to support the person in jail (Hairston, 2002). Fishman (1981) says that partners of incarcerated men often miss the prisoner as a member of the family, husband, partner, father, and breadwinner. They also describe feelings of loneliness, isolation, financial problems, difficulty dealing with the children, shock at all the procedures and going to court (Miller, 2002) and abandonment (Gabel, 1992a). However, some families feel relief: many prisoners are dependent on drugs or have no job and are therefore more of a drain on family resources in the community than when they are in jail (Hairston, 2002).

The families of the prisoners had similarities in their profiles. All of them had experienced the traumatic situation of having a relative incarcerated; most of them suffer from financial problems, because of the necessary expenses related to the court, visits, etc. (Families Outside, 2003). These families may need psychological support to help them to handle this situation; they also need practical support and information about getting to prison visits and prison regulations (Loucks, 2004). Most of them report problems of poor health, which they recognised as a consequence of their relative's imprisonment. They are poorer, lonely, jobless (Philips, 1985), face depression (Grimshaw & King, 2002) and have problems with coping alone (McEvoy *et al.*, 1999).

These symptoms can increase by the fact that many prisoners lose contact with their families. The relationship between a couple starts to decline during custody (Light, 1989), confirming the Home Office's Social Exclusion Unit (2002) report that 43% and 48% of sentenced and remand prisoners, respectively, lost contact with their families. Reasons for this include the distance between home and the prison. Some families have to spend 4 to 5 hours to reach their relatives (Loucks, 2004). In 2003, Families Outside found that 40% of the families in Scotland spend 5 – 12 hours, from the time they leave home, arrive at the prison to the end of the visit; 15% of these families spend more than 12 hours. The Prison Reform Trust reported that 60% of the prisoners said they would have more visits from their families if the prison were not so far away (Farrant, 2001).

Another problem is the cost of the journey; some of them spend £30 or more for one visit (*ibid.*). Most families are not aware that they could have visits expenses paid, although not all people are entitled, because they have to fulfil certain criteria. Such problems increase for families travelling with children, which leads to reduced visits (*ibid.*).

This chapter talked about the numbers of children that live with the stigma and consequences about having a parent in jail, namely the outcomes that could appear in short and/or in a long term way. These consequences could be anxiety, loneliness, fear, loss and many other internal and external behaviours. The next chapter talks about resilience, specifically definitions and the protective and risk factors for resilience in children. It also describes how children can recover from a traumatic event such as parental imprisonment.

## Chapter II: Resilient Children

### 1. The Importance of Resilience

#### 1.1 *Definition of resilience*

There are many definitions of resilience, although all of them share the idea of a successful adaptation in people who had experienced an adverse situation (Haz *et al.*, 2003), or the ability to recover from adversities (Newman & Blackburn, 2002). These definitions are corroborated by others authors such Masten and colleagues (1990), and Luthar and Cicchetti (2000). Another definition is given by Garmezy (1991, p. 4), which refers to “*the maintenance of competent functioning despite an interfering emotionality*”.

Grotberg (1996a) describes resilience as an ability which allows someone to avoid, reduce or defeat the harmful effects of adversity. Resilience could be found in a human being, society or group. It is not associated only to a single adversity, because it can be developed to manage future adversities better (Grotberg, 1996b). Garmezy (1993) gives us another definition of resilience, as the individual ability to adjust properly, positively or feeling competent, despite being at serious risk. Newman and Blackburn (2002) also give a definition for resilience, but for children. They say that resilient children are more capable of confronting stress, of managing change and indecision, and recuperate more quickly and thoroughly from disturbing incidents.

#### 1.2 *Protective factors*

The literature suggests that a variety of factors could contribute to and are associated with the good function of children/families who are at higher risk (cf. Ungar, 2004). However, these protective factors are not going to determine precisely which high-risk child will come through (Ungar, 2004). These protective factors are associated with extended term social and emotional welfare in the child’s complete world (Getting It Right For Every Child, 2008).

Research reveals that almost all children recuperate from short adversities and that this could have little impact in their adulthood (Newman & Blackburn, 2002). The fact that some children cope better with a difficult situation is explained by the existence of protective factors (Getting It Right For Every Child, 2008). Newman and Blackburn (2002) suggest

some protective factors that help recovery from a traumatic impact and promotion of resilience. The best factor to promote resilience is good family support (*ibid.*). It is most powerful where there is appropriate and positive involvement of the parents (Osborn, 1990).

Murray and Farrington (2008) discovered that children could be protected from the impact of parental arrest if they had security of care that could be provided by other members of the family; if they received social and economic support; and if they lived in a place where there is a better attitude to transgression and imprisonment. McCubbin and McCubbin (1988) add the description of *family resilience*, which means the positive coping of the family before life alterations, pressure, stress or adversity.

Initially, the definition of resilience was only associated with a person with a positive adjustment to adverse situations (Rutter, 1987), but at that time the definition was also applied to the family (Allison *et al.*, 2003; Hanson, 2001; McCubbin & McCubbin, 1996; Walsh, 2002). In resilience, when the family is facing a challenge, they have to deal with those problems and try to improve and have the capability to overcome the crises (Black & Lobo, 2008). Besides the fact of surviving the adversity, the resilient family also seems to have a higher probability of developing, increasing and being more capable to work out future adverse situations (Walsh, 1998). Together, they were capable of overcoming the problem (Black & Lobo, 2008).

Black and Lobo (2008) mentioned that, although there is not any universal list of protective and recovery factors, the literature distinguishes some of them as follows: optimistic attitude, spirituality, family element harmony, flexibility, communication, good economic administration, time together, common leisure interests, customs and habits, and social support. Resilience in a family could be reached by flexibility, mutual support and guidance, and cooperation (Walsh, 2002). For a resilient family, it is also important to develop support interventions, such as parenting education focused in capability and problem resolution (Rutter, 1999).

Children who have gone through adversity should be given good social support; total support from at least one parent or substitute; good experiences at school; a strong perception of capacity and confidence; capacity to help others; engage in challenging situations in a way to allow them to develop problem-solving, emotional and coping skills, and other extra-curricular activities that allow the children to develop their capacities and emotional maturity (Newman & Blackburn, 2002). A dedicated person outside the family (*ibid.*) and a good

social connection with, for example a teacher, could also be a good protective factor, especially for adolescents (Burton & Marshall, 2005).

Adolescents must be involved in their societies, families and schools in a way to prevent or even decrease the probability of becoming involved in criminal behaviour (Burton & Marshall, 2005). However, Burton and Marshall found a strong relationship between engaging in sporting activities and involvement in aggressive behaviour in young people. They found that sporting activity is not a protective factor but could indeed operate as a risk factor (*ibid.*; also Watkins 2000).

Eccles and Barber (1999) said that extracurricular activities may allow the adolescents to be involved and occupied in a way to prevent them from engaging in delinquent behaviour. However, they also said it is necessary to specify the type of activity. They found that when the extracurricular activity is pro-social, such as volunteering or church, the probability of an adolescent becoming involved in criminal behaviour is lower. In activities such as sports, the probability of developing drinking problems is very high (*ibid.*).

Other protective factors could be the achievement of respectable social roles, the aptitude to contribute to the household finances and educational accomplishment (Newman & Blackburn, 2002). Beam and colleagues (2002) verified that when the adolescents have affection and support from others, they will be protected from engaging in criminal behaviour. Additional protectors include trusting relationships; good emotional support (Brooks, 1992); self-esteem (Wolin & Wolin, 1993); support for being independent (Segal & Yahras, 1988); hope; perception of being loved (Mrazek & Mrazek, 1987); school achievement (Wang, Haertel & Walberg, 1994); faith in God (Garbarino, Kostelny & Dubrow, 1993); and unquestioning love from another person (Bronfenbrenner, 1996). Osborn (1990) added that a mother with a positive outlook tends to have more resilient children, while mothers with negative feelings tend to have depressed children.

Karp (2007) noted that when a child has a parent in jail, it is important that teachers and the school social workers are sensitive to the problems and to the feelings of the children, while at same time being conscious of the support that the children could need. For that reason, schools should have programmes for the children that enable them to share their problems with other children and to understand that others have similar problems (*ibid.*).

Children of incarcerated parents are more vulnerable, especially the children of incarcerated mothers who are considered as children at higher risk (National Council on Crime and Delinquency, 2004). Some factors could moderate the impact of the parental

imprisonment, but the most significant predictor of the way the children will adjust to the separation is the quality of the relationship they had with both parents (Parke & Clark-Stewart, 2002). Another important factor for a good adjustment is the frequency of contact they have with their imprisoned parents (Parke & Clark-Stewart, 2002).

A child would be capable of coping through a separation if she/he had a high quality relationship with both parents, because this relation will serve as a protective factor (Myers *et al.*, 1999). Children could also have a better adjustment they have good family support and other close people they can trust as a good social support (Parke & Clark-Stewart, 2002; Dallaire, 2007). If the mother is a single parent, this kind of support is more significant (Parke & Clark-Stewart, 2002).

### 1.3. *Risk factors*

Risk factors are a result of a negative outcome, such as stressful negative life-events. They are the factors that increase the probability of developing a disorder (Masten & Garmezy, 1985). When we talk about the impact on children, we are used to talking about the negative consequences, sometimes forgetting the examples of successful coping (Greene *et al.*, 2000).

Newman and Blackburn (2002) state that risk factors are connected. For instance if a child lives in a disadvantaged region and has less structure in his or her life, the child is more likely to join in risky group activities and have restricted job ambitions. If at the same time the child lives in a house with parental conflict or lives with a single parent, the probability of having a high level of resilience decreases (*ibid.*). Unfortunately, if a child faces extreme or recurrent adversities, the probability of resilience is rare (Cicchetti & Rogosch, 1997).

The risk factors for reduced resilience in children include learning disability; genetic factors; developmental delay; complex personality; difficulties with communication; chronic disease; deprived educational performance and low self-esteem. Related to these are the risk factors associated to the family, namely elevated parental disagreement; parental separation; poor constant supervision; parental-child hostility; child abuse; parents with psychological disorders; parents with alcohol or drug problems; parents with criminal history and poor friendship networks (*ibid.*). Risk factors associated with the environment are poverty; few social resources; homelessness or fragile housing; racism and unpredictable and unmanageable crises (*ibid.*).

Other authors also suggest some factors in resilience that are very often linked to the risk factors. These resilience factors are also the individual child, family and environment (Emery & Forehand, 1994; Palmer, 1997; Gilligan, 1997). Individual resilience factors are the character/personality of the children; females before adolescence and males throughout adolescence; younger age; elevated IQ; social abilities; individual consciousness; feelings of compassion; internal locus of control; humour and pleasant appearance (*ibid.*). Family resilience factors included good parental support; high quality relationship between parent and child; parental agreement; respected social role; and secure relationship with one parent (*ibid.*). From these factors, we can easily understand that, after the imprisonment of a single parent, these protective factors could be damaged, and the child will have difficulty in achieving them.

Finally, the environment resilience factors are described as having support from the extended family; school achievement; friendship networks; respected social role; good relations with a non-family member; and association with a religious or supportive community (*ibid.*).

One example of a risk factor is abuse in childhood due to the interruption of normal child development. Children with low interpersonal trust in childhood frequently have problems related to relationships in adolescence and adulthood (Greene *et al.*, 2000). Another risk from this is the aggressive model at home, because the child grows up thinking that that behaviour is correct in resolving arguments. If the children suffer from physical abuse, the risk factor for engaging in a delinquent behaviour is higher (Dodge, Bates & Pettit, 1990).

Masten and colleagues (1990) further describe three different types of resilience on children. The first is when children successfully fight to overcome adversity (e.g. in case of low birth weight babies). The second is related to children who develop coping strategies and maturity to deal with continuous stress (e.g. parents with alcohol and drug problems; *ibid.*). The third type of resilience is when the child experiencing severe trauma can recover and improve (e.g. tragedy, loss of a parent or child abuse; Gibson, 1998).

From another point of view, Greene and colleagues (2000) found that incarcerated women face many risk factors such as physical and/or sexual abuse, aggression, and drug problems. These risk factors are corroborated by others studies (Bloom & Steinhart, 1993; Chesney-Lind, 1997; Snell, 1994). These authors also reinforce the idea of a cycle of pain that these mothers go through and know is being replicated in their children's lives. The research also



indicated that these mothers revealed intentions to protect their children from the pain they suffer (Greene *et al.*, 2000). The children of incarcerated mothers often suffer the consequences of the mother's criminality and could follow in their footsteps into the criminal justice system (Sandifer, 2008), making an intergenerational cycle of incarceration (American Correctional Association, 1990; Barnhill & Dressel, 1991; Johnston, 1991, 1992; U.S. Department of Justice, Bureau of Justice Statistics, 1998).

The preceding studies suggest that some of the risk factors that raise the probability of future criminal behaviour include having parents with previous involvement in offending behaviour (Rowe & Farrington, 1997); peer groups with antisocial behaviour (Thornberry *et al.*, 1994; Paetsch & Bertrand, 1997); big families (Farrington, Coid & Murray, 2009; Bijleveld & Wijkman, 2009); deprived accommodation; low parental supervision (Farrington *et al.*, 2009; Bijleveld & Wijkman, 2009); broken homes (Stattin, Romelsjo & Stenbacka, 1997; Beam *et al.*, 2002; Bijleveld & Wijkman, 2009); low academic achievement (Farrington *et al.*, 2009); and having one or more convicted siblings (Van de Rakt, Nieuwebeerta & Apel, 2009). Having a convicted mother also increases the risk of a future conviction. This finding is related with both sons and daughters, although the relation is slightly stronger with sons (*ibid.*). Furthermore, all of the factors that increase the likelihood of future crime are also factors that decrease the possibility of achieving resilience.

For these reasons it is essential to develop parenting programmes as well as parenting education for prisoners. Palmer (1996) notes that these programmes are very good for incarcerated parents and help reduce recidivism (Rudel & Haytes, 1990). Parenting programmes outside the prisons are also recognised as good programmes to teach parenting skills. They are also excellent for intervention with children with conduct problems (Kazdin, 1987).

## **2. What should we do to promote resilience of these children?**

Newman and Blackburn (2002) express the need to make sure that isolated mothers have the necessary support throughout a child's early life. It is also necessary to encourage the parents to use child care; to "*make available high quality pre-school provision based on sound pedagogic principles*" (*ibid.*, p. 2); try to look for the children's strengths; give confidence to have autonomous views and behaviour; promote problem-solving and coping

skills and give them the opportunity for part-time volunteering work (*ibid.*). Another option is to try to reduce the effect of multiple risk factors, which are often present amongst children of incarcerated parents, such as to avoid having more than one risk factor; maintain self-esteem and establish self-efficacy; and create new opportunities, such as extra-curricular activities or part-time work (*ibid.*).

Rutter (1987; 1993) also suggests some protective factors that could help in resilience interventions. It is possible to try to modify or decrease the child's exposure to risk. For instance, if the children do not have enough space at home to do homework, or if the family does not have enough money to provide breakfast to the child, the school could meet these needs (*ibid.*).

In addition, the research also suggests promoting resilience at different stages of life. In the early years, it is crucial to give the baby satisfactory maternal nutrition during the pregnancy; avoid smoking and places where smoking is allowed; avoid or reduce alcohol intake; do pre-natal identification of foetal disease; give maternal MMR vaccinations; have social and family support; access good quality health care and intervene where necessary to avoid domestic violence (Newman & Blackburn, 2002).

With regard to developmental challenges, such as low birth weight; nutrition; parental isolation and extreme adversities, Newman and Blackburn (2002) identified the following as resilience factors: satisfactory parental skills; social support; good quality housing; parental education; safe play areas and presence of learning materials; breast feeding up to three months; support for the father/partner and family; and when the child is removed from home, an early adoption to allow more chance of moderating non-genetic adversities.

In the pre-school development stage, the authors propose strategies to promote resilience against challenges such as starting school, inadequate home care and parental isolation (*ibid.*). The strategies include high quality pre-school day care; preparation of the parents to encourage them to engage in the education of their children; pairing with resilient peers; accessible substitute caregivers; food supplements; extra-curricular activities; relations with other parents, local community networks and faith groups; and community regeneration initiatives.

During primary school, and because the developmental challenges are the entry to school and stressors at home, some of the resilience-promoting strategies include: parental involvement in the school; effective pedagogic approaches; good school experiences; trusting relationships with teachers; development of competencies; clear routines; fair sanctions; if

abuse is present, good relations with the other parent or another family member or adult; maintenance of family routines and rituals; encouragement of self-efficacy and stable accommodation (Newman & Blackburn, 2002).

Some school programmes have been developed in order to promote resilience in children. One of these programmes - Home School Link, Ayr, funded by North Ayrshire Council - was in six primary and two secondary schools in Scotland, where the main objective was to create closer attachment between school and home (Newman & Blackburn, 2002). The project identified vulnerable children, then information and support was given both to them and to their parents, to allow them to increase confidence and participate appropriately in the school and education (*ibid.*).

Another example was in primary schools in England, in which 12 children were recruited to a School Start project. The aim of the study was to give the necessary tools to children to prepare them for entry to school and to increase parental support. The programme was developed in the school and at the child's home, but the attention was focused in the school to give more confidence to the parents and to make the school less frightening. Two years after the beginning of the project, and without having a control group, both the teachers and the parents expressed their satisfaction with the programme and also described the increased parental involvement in the project. Fewer behaviour problems were detected, and both parents and children appeared better equipped for school entry.

In *The International Resilience Project*, the most recurrent adversities were identified in a sample of 600 children and families in 30 countries. The most common adversities were: death of parent/grandparent; divorce; parental separation; illness of a parent or sibling, poverty, changing home, disasters, child abuse left unaddressed, suicide, remarriage and homelessness (Grotberg, 1996a). Grotberg (1997) described that parental separation is one of the most frequent adversities that can affect the children at any age, although it is in the pre-adolescent age that the children are at more risk (Wallerstein, Corbin & Lewis, 1988), with boys more susceptible to this (Block, Block & Gjerd, 1986). Kendler and colleagues (1992) add the fact that parental separation could be a higher risk factor for dependent children than a parental death.

During adolescence, the developmental challenges identified by Newman and Blackburn (2002) were school transition; home stressors, such as parental alcoholism; parental/child illness; refugee status and being in care. For these specific challenges, strategies to promote resilience included programmes that promote emotional literacy; promotion of positive and

motivational styles; opportunities to develop valued skills; engagement in programmes that persuade peer co-operation and collaboration; activities after school; social support, relations with cultural or faith community; educational achievement; positive peer relationships; and improved locus of control through valued roles and work outside home or as a volunteer.

Grotberg (2004) described that many people change after experiencing an adversity. For example, imagine a young child who developed a fatal illness and, because of that, expended the last months of life helping and comforting others (*ibid.*). This adverse situation changed the child to allow him to develop empathy, altruism and compassion for others (*ibid.*).

Such findings are very important: the transformations that an adverse situation can bring are significant in promoting resilience (*ibid.*). This also means that creating opportunities to help others can be very important for children who have experienced a traumatic event, (Newman & Blackburn, 2002). Volunteer work consequently increases the probability of developing a positive resilience (*ibid.*).

On the other hand, Rutter, Giller and Hagell (1998) suggested eight protective mechanisms to promote resilience. The first mechanism is to diminish the child's sensitivity to a risk, normally by experiencing situations of positive coping. Second is to try to decrease the impact of the risk factors in children; and thirdly to reduce the possibility of family conflicts leading to collapse. Other mechanisms are to amplify positive reactions in the family in a way to help them remain together during crises; encourage self-esteem and self-efficacy through experiences with positive coping; reduce the effect or recompense the risk that the child has been through; provide good opportunities for transformation and development, such as good schools; and finally to substitute feelings of powerlessness with positive thoughts such as hope (*ibid.*).

When these eight mechanisms are combined, they allow the successful mitigation or even defeat of adversity (*ibid.*).

### **3. Child Impact Statements and Resilience**

As we know, it is crucial to do what is in the best interest of the child. For that reason, some mechanisms must be put in place to ensure that children's rights, interests and views are taken into account in decisions and in the implementation of laws and policies (Patan & Munro, 2006).

*Getting it Right for Every Child* (GIRFEC, Scottish Government, 2008) is a programme aiming to improve outcomes for all children and young people. GIRFEC also tries to help all professionals focus their work to make a positive difference for children and young people (Scottish Government, 2008).

GIRFEC identified eight indicators of well-being considered as indispensable requirements for all children and young people to develop to achieve their full potential (*ibid.*). These eight indicators are for children to be:

- *healthy (having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices);*
- *achieving (being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school, and in the community);*
- *nurtured (having a nurturing place to live, in a family setting with additional help if needed or, where this is not possible, in a suitable care setting);*
- *active (having opportunities to take part in activities such as play); respected (having the opportunity, along with carers, to be heard and involved in decisions which affect them);*
- *responsible (having opportunities and encouragement to play active and responsible roles in their schools and communities and where necessary, having appropriate guidance and supervision and being involved in decisions that affect them);*
- *included (having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live; and*
- *safe (protected from abuse, neglect or harm at home, at school and in the community) (Scottish Government, 2008, p. 12).*

GIRFEC also defends the right of children and young people to have their point of view heard in decisions that involve them (Scottish Government, 2008).

As we can see, the main indicators of well-being that GIRFEC use are closely related with the positive/protective factors that promote resilience. Indeed, GIRFEC mentions the importance of resilience in the well-being of children and young people, and it is often used in assessments by professionals.

Because each child is an individual person, the entire context of the child should be taken into consideration for considering resilience (Daniel & Wassell, 2002). For that reason, it is

very important to see every child in a family as unique: each child may experience the similar situation in a diverse manner (Getting It Right for Every Child, 2008).

Returning to the focus of the current report, this also means that if a child impact statement is considered in any potential custody decisions, it will be possible to identify the risk factors and/or the situations that are more likely to affect the children. Consequently, it should be possible to minimise the impact of the risk factors and to promote resilience in the children who experience a traumatic situation.

If we go further, we can also use impact statements for the family as a whole. That will certainly facilitate children, young people and their families working together to provide the best help, as GIRFEC recommends (The Scottish Government, 2008) and avoid concomitant risk factors. In addition, “*By placing children and young people at the centre of policies, activity and planning and by having common principles and values we can secure better outcomes*” (*ibid.*, p. 18). In this way, it will be possible to help the children and their family in the best way to reinforce the protective factors and resilience and to decrease the risk factors (Getting It Right For Every Child, 2008).

As this chapter shows, resilience is not easy to achieve, but it is not impossible. Many risk factors affect resilience, and these types of factors are likely to be more common amongst children who have a parent in prison. For this reason, it is necessary to promote protective resilience factors in children who have or have had a parent in prison. This can be achieved if we sensitise people to the possible outcomes.

With this in mind, we present in the next chapter a summary of the interviews of key stakeholders about the child/family impact statements, which we hope contribute to a better understanding of this issue.

### Chapter III: The Interviews

The main objective of the current research is to learn more about the issues surrounding the use of Child/Family Impact assessments before we move into designing a tool for a Statement in Scottish courts. The research focuses on what a Child/Family Impact Statement would look like and how it would be used. The types of questions we looked at included:

- Who should be responsible for Child/Family Impact Assessments (e.g. Criminal Justice Social Workers, who do court reports; Children & Families Social Workers, who also have the power to take children into care; or a child-focused voluntary sector organisation contracted in specifically)?
- Would judges actually use the information/would it make any difference?
- What is the focus of the Statement? Would the assessments be used to inform judges or to highlight areas of need in the event of custody?
- Should the target group for such an assessment be narrowed to accommodate the likely numbers involved and limits in resources, and if so, how?
- Are such assessments used elsewhere, and if so, what can we learn from these?

To reach our main purpose of understanding more about the use of Child Impact Assessments in court, as recommended by the Scottish Commissioner for Children and Young People (SCCYP) in 2008, we conducted fifteen interviews with key stakeholders. These included professionals from Criminal Justice Social Work and Youth Justice, the Scottish Prison Service, Children and Families Social Work, Families Outside, Children in Scotland, Members of the Scottish Parliament, Action for Children, Salvation Army, South West Scotland Community Justice Authority, Scottish Commissioner for Children and Young People, Criminal Justice Social Work, a lawyer as well as a Sheriff.

Such a small sample will not provide a representative view, but the range of respondents was designed to highlight key themes and concerns. What follows is a summary of the interviewees' answers.

#### ***To what extent is the impact of parental imprisonment on children and family recognised in court?***

Of the fifteen people interviewed, seven said that the impact of parental imprisonment on children and families is not recognised or even taken into consideration in court: *“At the*

*moment that is not a huge priority, otherwise the document realised by Kathleen Marshall [Not seen, Not heard, Not guilty], wouldn't have raised the issue of innocent victims of crime"; "it is not taken into account, to a huge extent ..., certainly it is not a common practice"; "there are, particularly, mothers in prison that really indicate that is the case."* During the interviews, a point that reflected this general feeling was that from the last 20 years of Social Enquiry Reports and the work done by Social Work, there was no sense of progress on behalf of offenders' children, despite the guidelines and the legislation.

Further to this, two respondents said that they were not sure to what extent the impact of parental imprisonment is taken into account. One respondent clarified this by stating that it would be dependent on the variations in each individual case and Sheriff. Further to this, the impact of parental imprisonment is *"potentially is something which is routinely considered with females, the main carers, but not necessarily given the same priority with males."* When it was recognised that the impact of parental imprisonment on the child should be taken into account, it was considered to a limited extent and only in certain circumstances, such as for minor offences.

In contrast, an additional and important point expressed by an interviewee working directly with families was that many families did not perceive that the impact on them is taken into account by the judiciary. Respondents also commented that they believed judges did take into account the background reports that Social Workers carried out, but that they did not necessarily concur with the information or recommendation. Another important point that one of our interviewees focused on was the extent to which judges take account of these background reports and that this was dependent *"on [the judge's] own particular view and their own discretion and sentencing."* Other respondents said that the impact of their decisions on children and families is recognised by the judiciary to some extent, but that this recognition needs to be standardised.

Another interviewee mentioned that the judges are aware of the impact when they are imposing sentences. However, *"the importance of that will vary much [from] case to case, in very serious cases I am afraid that the impact of the impact of imprisonment on a parent is something which will not waive the balance, because of the seriousness of the crime"*.

An additional view was that the impact of parental imprisonment on children and family is recognised, but at the same time *"it is not terribly important for the final decision in the court most of the time."* The reason for this is that less serious offences cannot be punished by imprisonment, therefore the impact on children and families is less extreme. However, one



area where the impact of parental imprisonment on children and families applies would be community service. This is recognised to some extent, *“but sometimes with some reluctance in court”*.

The complexity of court decisions was also evident in one interviewee’s answers, with the point made that there is *“stress between the court not punishing the children of offenders on one hand, but also not treating offenders with children differently from how [other offenders] are treated.”*

How should judges use this information? One respondent said they should *“balance the interests of all children, against the wider public interest and sentence considered ... that doesn’t mean to say that the child’s interests should always outweigh the public interest - there is a balancing act. I just don’t see how we can even begin to perform that balancing act without the information - Social Enquiry Report and some kind of assessment of the impact on the child. Without that information the court just does not have the ability to know how to balance the decision.”*

With regard to whether the impact of parental imprisonment on children and family should be important for the final decision in court, all the interviewees agreed that it was clearly important, emphasising that it should *“be a major factor.”*

***Should judges be made aware of these types of issues, and if so, how should they use the information?***

With regard to this question, the answers from respondents were unanimous. All agreed that judges should be aware of the impact of imprisonment on children *“and look into each scenario and ... the information.”* Before making a decision on sentence, the judiciary will make a choice from the different options available to them, and for that they need be sensitive to a range of issues, including an awareness of *“the impact of their decisions.”* The judges need to look to *“all picture of the person and what their life situation is, what their family situation is, what issues and what responsibilities”*.

However, the interviewees’ opinions also illustrated that this decision would also take account of *“individual assessment, personal circumstances, the crime they committed, the social impact factors, previous crime history and possible male or female carers’ intervention.”* The decision is something that *“should be done by case, with the most appropriate disposal for that particular case and ... the accused”*, though these should not be

decisive factors: *“There must be an independent assessment, and the offenders themselves are not in the position to make reasoned decisions about the situation.”*

The respondents often stated that judges should use the information when they are *“deciding what disposal to impose on what sentence and [whether] it is going to be a custodial sentence or if it is going to be community based.”* Most importantly, the decision should be made so that the child’s needs are focused at the centre of that decision.

The judge should routinely be aware of any possible negative impact on the child *“if somebody is potentially going to be sent into custody.”* However, judges also have to balance various issues, *“because they have to take into account what the crime was, if it has been repeated, ... and whether or not holding that person in custody is good for the wider society. Of course, there is an impact [on the child] as well, but it might be better for that child, if the man or woman who has offended goes into custody. So, there is a huge balancing act which has to be carried out there.”*

It is especially important to consider the consequences to the children due to the *“regressive nature of a child’s behaviour once the primary carer or parent has gone into prison. Those are huge social issues, so, it is much wider than the initial issue of punishing that prisoner, there are huge issues that will be felt by society in later life. That child is likely to offend ... Judges should use very carefully the balancing up process and try to find out what it is best for the child and what it is best for society as well.”* The *“judges need to know [that research shows] that criminality in the family is a major feature in future criminality. The impact of custody on families is something of which we need to be much more aware.”*

One suggestion was that it was important to have guidelines and essential that the *“Social Enquiry Report writer should spell out the implications of any community disposal on individual capacity to change, but also on any other person in their social network particularly children. That should be absolutely routine in the case where custody is being considered.”*

One problem raised was the fact that the standards for the writing of Social Enquiry Reports were not always being used, as one of our interviewees reported: *“I really don’t see them being used in a case very often, and to be fair even if a social worker raises it I suspect they have to raise it in a rather subtle way because I don’t think that our judiciary would respond positively to the implication that custodial sentence should be waived because of childcare needs. The exception to that may be found in some female cases. ... I am thinking more about men [where] it is just assumed that men don’t have children or the children don’t*

*need the father, and I think that it is extremely worrying. I suspect that features more in relation to women, but I don't think ... there is any evidence that the number of women with children going into custody has dropped, as far I am aware."*

Respondents commented that judges "*need to stop and think once they have made their adjudication as to what they think the sentence deserves and, if they think it is custody, they really need to be under much more pressure to put that to one side for a moment and consider the family implications, the costs and the risk to the children ... particularly short-term custody, when all the evidence suggests that it has no particular benefit to the public, because most of the people come back worse than when they went in. The only benefit is it the time period that the person is away, is arrested and it is in that period that children should be considered."*

Finally, some noted that judges are aware of this type of issue. The problem is that these issues are not always clear in the Social Enquiry Reports: "*The social workers' reports don't tell us all of the impact on children, of imprisonment particularly."* The impact of parental imprisonment is very important and should be taken into consideration, "*because otherwise we are perpetuating the impact on families, and obviously judges are not meaning to do that."*

### ***Are Social Enquiry Reports enough to address any need for information about impact on children and families?***

The general opinion is that Social Enquiry Reports are not enough to address the need for information about impact on children and families and that it is certainly necessary to "*have guidelines to alert the Social Enquiry Report writer to look seriously at the implications of custody on children."*

In fact, Social Enquiry Reports could be enough to address this need if they were "*a normal requirement of the background"*. However, they "*are not standard, they are not always there all the time, they do not always happen"*, and as a consequence they can be considered "*of limited use"*.

Another problem regarding Social Enquiry Reports is avoiding "*slowing up the process and creating more work"*, because they "*take up a huge amount of resources and deliver very little. Certainly Social Enquiry Reports writers should routinely check the children are not already known."* One interviewee did not agree that adding the impact of imprisonment on children/families is going to slow down the process, but if it did then "*it is no reason to not*

*look at it*", because *"if it makes for a better report"*, then it is worth it. The problem could be how far we could go with it. It wouldn't necessarily cause extra work for people to *"think slightly different for 10 minutes of their interview, to put a couple of sentences in there, doesn't have to be sheets"*. Maybe we *"just need to rethink a little bit"*.

Furthermore, one interviewee mentioned that the Social Enquiry Reports might be enough, *"but we may argue that it is not a prime purpose of Social Enquiry Report"*. The prime purpose is to provide to the judge information about the prisoner. However, *"The information about the impact on family and children is part of that"*.

The Social Enquiry Reports are *"focused on the offender and not on the needs of the children and what impact it is going to have on them and who is going to look after them if it is a custodial sentence, etc. ... It would need a much more comprehensive and specific analysis of the needs of the children."* The Social Enquiry Report *"is almost certainly not adequate in terms of the impact on children and families."* The Social Enquiry Reports do not go into *"these type of issues in great detail and certainly not in terms of emotional impact"*.

However, it was mentioned that the *"Social Enquiry Report is written in very restricted guidelines that are done by the government. So, there are areas that we can go to and there are areas that we can't, and the social worker has to be very careful to not cross a line and become a defence agency and plead mitigations. That is not our job, that is a defence agency job, and we could be discredited for doing that. So, there are limits to what we can write, but that is not to say that we couldn't look at this and do better"*.

In spite of the limitations of what can and cannot be written in the Social Enquiry Report, one respondent was open to trying to do better : *"I can't say that we are doing enough, you might have a better answer to that and maybe we do it, but you may not consider that it is enough"*. Another general opinion was the uncertainty of who is responsible for addressing the needs of the child in those cases, but Social Workers should *"at least figure in the assessment, they need to make sure that somebody is doing the assessment of the child."*

One question raised during the interviews was the issue of communication and the responsibilities of the Criminal Justice Social Workers and the Children & Family Social Workers during the completion of Social Enquiry Reports. This question makes us aware of a gap between the roles of the two types of social worker. Social Enquiry Reports are the Criminal Justice Social Workers' responsibility: they were trained to do that: *"Preparing everything for the court, but they are not experts in family function"*; *"They may have a generic training, but they never ever have or have very limited experience in looking at*

*families and at family function”; “The Criminal Justice Social Workers see their role as going in [to undertake] the supervision of the offender and nothing to do with seeing [if] the baby is alright. So, there could be quite serious consequences of that”; “People who are dealing with the criminal justice system don’t necessarily have the skills and experience to complete good assessments about family function and family impact. So, it is not a case of social enquiry reports.”*

### ***Relevance of the impact of imprisonment on children and families to decisions in court***

The interviewees agreed that it was important to recognise the bearing on children of the decisions in court, because they *“obviously have a huge impact on the child.”* It is also important to understand how that impact is going to affect the children regarding the future consequences such as *“criminal behaviour, psychosis, parental separation and attachment issues. The rights of the child need to be paramount and children often don’t have a voice. So, someone else needs to be a voice and highlight the impact that the imprisonment is going to have on the children”*. This impact is also important *“to decisions on disposal, as a guide for a judge who has to make a decision about which is the most appropriate disposal.”*

A suitable method would be to consider each case individually, with regard to the *“seriousness of the crime, repeat offence, social circumstances and best interest of the child. This information should be available to the court, but if the court decides that ... a serious sentence is the most appropriate disposal for the offence, support for the child and measures to deal with the adverse consequences of that situation can be put into place quickly and sensitively, rather than waiting for bad things to happen in the child’s life and then to respond to that when it is more difficult.”* It is difficult to find two genuinely equal cases and consequently to have a *“standard application of a rule.”*

In some cases the judges should consider a community response as an alternative, because in that way they reduce the costs and *“there will be less damage to the family.”* The costs to society should also be considered, *“because of children in care and what they do afterwards. The court should take account of that, not just look at whether or not the person should be in prison, but also how they should be treated, then they could look after the family as well as being punished. The family aren’t punished, that is the bottom line – that children shouldn’t be punished.”*

Interviewees also stated that it is important for the court to take into consideration the impact of parental imprisonment, because it is going to be *“much more beneficial to the wider*

*society for courts to recognise the potential benefits of them being dealt with outside of normal channels i.e. custodial sentence...*” However, some respondents also agreed that this would not be easy, because it could be a difficult decision for the court to make regarding “*a position where a prisoner, or a potential prisoner, or offenders are going to use their kids as an excuse to not have to go to prison. So, it is a difficult [decision], but certainly one that we have to make, because we know the bad and damaging effects that can happen with the children once a parent or carer goes to prison.*”

Another important point of view is that parental imprisonment is relevant for the decisions in court: the difference is that it is “*not as relevant as other factors at the moment.*” This happens because the seriousness of the offence takes priority, and “*that is why on a theoretical level the impact on children is not as important, because punishment is meant to be proportionate to the offence and not necessarily to the circumstances of the offender.*”

A further opinion adds the fact the court is “*not looking at the point of view of the family*”, but a “*part of the sentencing process, the consequences to the individual are always a relevant factor and that includes the family. Most sentences, apart from the very longest ones, have a very strong subjective element and that one is trying to look at them to see what it is the best method of disposal to deal with the individual, both to mark the seriousness of the offence and to stop doing it again. So, these are the primary considerations in sentencing. What effect is it going to have on the family is not a prime consideration on sentencing, although in some sentences that is irrelevant*”.

### ***How important is it to assess the impact of a sentencing decision on the offender’s family or children?***

All the respondents referred to the importance of assessing the impact of a sentencing decision, especially from the “*point of view of understanding the needs of the child or the needs of the family: this is extremely important.*” The best interests of the family should be “*put in place ... instead of escalating and being picked up too late*” though some believed it “*can’t be a deciding factor.*”

In saying this, some also believed that it is important “*to take into account, what the impact is on children of the sentencing decision, because children are more likely to be negatively affected by a court sentencing process that doesn’t take into account their circumstances.*” Certainly, more information should be available about it at a practice level. Interviewees also said that this should depend on the seriousness of the crime, and the judges

should weigh up the decision if a child is involved and, maybe in a lesser offence, give a community service order instead of a custodial sentence.

Having the impact of the sentencing decision in mind, we could also start thinking why *“children of any age or only a few years ... start committing offences.”* Having a parent in prison could also have a *“negative impact not only on the child’s education, wellbeing and development”*, but also a direct impact on the child’s involvement in the criminal justice system in the future. In other words, assessing the impact on children is *“crucial and constitutes early intervention for the benefit of the offender’s children.”*

There is a strong impact on the child regardless of whether it is a woman or a man who goes to jail. However, there is a huge difference in the perceived effect of both. This can specifically be seen when *“men leave the family for a little while, and if they are not the primary carers, the families might struggle with money and all sorts of things, but they may not break up.”*

Assessing the impact of sentencing decisions is also important in relation to the *“long term impact and costs for society.”* With regard to assessing the impact of parental imprisonment, it does not mean that *“at some point in the future someone could challenge the decision of [imprisonment], perhaps when there is another option that didn’t impact on the child.”* In other words, *“it is best to deal with these things in advance rather than wait to see what comes up.”* However, another respondent mentioned that *“it is not a prime factor, in some instances it will be relevant, it may be important”*.

### ***Should sentences differ for offenders who are parents?***

All the respondents agreed that the question of whether sentences should differ for offenders who are parents was not an easy one and definitely one without a simple answer. The opinion of the majority of respondents was that it was important to distinguish if someone is a parent, although you could not *“say, in principle that simply because somebody is a parent the sentence for a particular criminal act should automatically differ.”* Similarly, they stated that it was not realistic to say that, *“because you are a parent and you offend you don’t go into custody”*. *“They have to get the same penalty as everyone else”*.

To distinguish between those cases, it is first necessary to have sentences which are different for each individual with a number of options available: *“If the parental impact, the impact on children and the consequences for children are part of the sentencing formula”*, and if this is also *“part of the supervision formula or the disposal formula”* so that judges feel

“satisfied that it will be beneficial for the child if that person does not go to prison”, that could be beneficial. There is also discretion which allows including the “*circumstances of this offence and what is the offender’s situation*”.

Two respondents added the importance of the sentences differing for offenders who are parents. However, “*we have to be very careful with that.*” It is crucial to “*be really specific*”, otherwise we could have mothers who “*claim maternity*” and they “*don’t have anything to do with the children.*” Some believed the sentence should be different, because “*the primary objective shouldn’t be punishment, but should be rehabilitation. Rehabilitating someone who is a parent is different from rehabilitating somebody who doesn’t have ... social responsibilities.*” “*For somebody who is parent, rehabilitation may also include parenting classes or developing skills that could be important.*”

With regard to alternative options, one respondent mentioned the fact that, in other countries, a person “*doesn’t get an automatic custodial sentence: it depends on the nature of the offence, and they will receive some other kind of punishment.*” Of course, it is important to “*think about public safety and keep that in mind, but given that most of the parents in prison probably tend not to be a risk to the public, that should perhaps be different*”.

The “*community services, non-custodial sentences, do have a much more positive impact in terms of not reoffending... They have to realise and recognise their responsibilities as well*”.

One respondent also mentioned that the criminal justice system sometimes treats females in a harsh way “*or they move through it more quickly, in turns from one level to the next*”. There should be “*different alternatives available to females, but we need to have a blanket rule*”. Another important factor is to try not to give imprisonment for very short periods because “*it doesn’t work, it doesn’t stop [offending]. It means that you can’t have [or] you can’t really begin rehabilitation courses. Short-term sentences also mean that you can’t really get the necessary education in prison as well. There is not much benefit to be had for either the person to stop reoffending or for their family. Of course, on the other hand, it could benefit the child to have the parent out of their life for a while.*”

However, there are some difficult situations to deal with and sometimes many issues to consider, for example whether it is necessary to “*make a recommendation that the sentence should be different for a non-parent who commits fraud and a parent who commits fraud, or a non-parent who commits assault and a parent who commits assault. There might be some*



*kind of rights issues there, looking at the offenders' rights and human rights.*" In those cases the judge could have a very hard task. It could also be *"difficult for the public to accept that because you are a parent you can get off. That could obviously encourage those parents to take advantage of their position as a parent."* When the judges are sentencing, *"they have to take account of all of these things plus the factors that differentiate that individual from other individuals ... and being a parent is one factor of that [and should be considered]."*

Two other interviewees did not agree at all with sentences differing for parents, because *"it would be unfair if I don't have a child, I get sentenced to jail for a year and someone else gets a month or nothing."* They also said that this *"would be a form of discrimination on no good basis and simply encourage people to become parents."*

A further two respondents believed this cannot be generalised, because *"the purpose of the court is to sentence the person for the crime they have done. If they are going to say if you are a parent you will be sentenced differently"*, that means that *"parents would never go to prison"*. It has to depend on *"the nature of the case"*, if it is a serious crime. Furthermore, one respondent added that he thinks this will be *"very difficult. How you can differentiate one sentencing between someone who has children and someone who is not?"* Besides this, when the most suitable disposal for the individual is being discussed, *"the fact they are parents is a matter which is taken into account"*.

### ***Should a decision be different just for mothers/primary carers?***

With regard to the questions about whether the decision should be different just for mothers/primary carers, two of the respondents directly stated that, yes, when possible, it should be different. One of the interviewees drew attention to the fact that, if the person in question is the primary caregiver, it would be very difficult even to *"justify short-term custody."* This should not be something automatic, meaning the judge should look at these particular cases very carefully and ideally not send them into custody: *"The norm should be established for family caregivers that custody ... should be the last resort."*

However, four other respondents believed that the decision should not be different. The reasons for this were: first, because men and women should have the same rights; second, it is unfair for the fathers, because *"mothers are often the primary carers."* Some made reference to the existence of opportunities for other options or even *"for the primary carer to bring the child, if it is appropriate, into prison with her."* All should depend *"on the nature of the*

*offence and we need to look more creatively at what [can be done]”. “The law is the law and has to apply to everyone”, and in those cases we have discretion.*

Trying to establish the reason for the offence was another suggestion. One of the interviewees mentioned that in Portugal, when an offender commits an offence because he or she is using drugs, attention is paid to *“curing the reason why they are taking drugs, rather than punishing them. That is a much more creative way of looking at what the actual problem is.”*

It was also mentioned that to carry out *“a proper assessment”*, impact statements should not just note whether a person has children, as the principal carer could be a grandmother. For that reason, *“it needs to be looked at properly. It is not the act of giving birth that means that you are the father: it is looking after the child afterwards.”*

Another detail that is very important is the fact that the *“decision should be based on the impact on the child rather than the impact on the parent.”* Certainly, the long-term impact and consequences on the children, on the primary carers and the seriousness of the crime should all be considered.

### ***Is it important to distinguish between parents and primary carers, and if so, how?***

The general opinion was that it is very important to distinguish between those cases, especially because not being a primary caregiver does not mean that a certain person is not important for the child’s life: *“So, it still has an impact on the child regardless of whether that parent is the primary caregiver or not.”* Even if a parent does not live with the child in the home, imprisonment *“may still have some kind of impact based on that child’s needs and rights.”* It is therefore extremely important to look at *“the real dynamics and not just the biological relationships ..., it is essential to look at the nature of the relationship.”*

The way of making that distinction is to check for evidence that a certain parent has contact, has a relationship with the child, *“check the genuine nature of the relationship”* and also make sure that he or she is important in the child’s life. For example, a parent who has children, but has no involvement, should not be treated in a different way from someone who does not have children.

It is important to ensure that a parent has some relationship with the child, because if he or she does not, the impact on the child is likely to be less. The individual circumstances should be looked at as well, and also consider *“the impact of their [parent’s] absence would have on the child on the daily basis.”*

However, the importance of looking at the children's rights was also broached, "*rather than saying we are not going to send you down because you are a parent.*" Judges need to be aware of "*the consequences of the decision that they are making, particularly for the children.*" For a judge to be aware of this would require the "*assessment to be done properly. It is not just a statement of fact that the person is a mother: that is not enough, it actually has to be assessable.*"

### ***Who should be responsible for conducting Child/Family Impact Assessments?***

This question was considered, by most of the respondents, as a difficult one to answer, because of all the issues involved.

With respect to all the concerns involved, four respondents believed that Child/Family Impact Assessments should be done by Criminal Justice Social Workers - at least doing the "*initial screening and making a judgement about the potential impact of a custodial sentence and any risks that it might bring for the family.*" Children & Family Social Workers should then do the assessment if "*there are any signs at all*" of the child being at risk. Another interviewee mentioned that if a Social Worker is already involved with the family and he/she is doing a Social Enquiry Report, the assessment could be done by that Social Worker at the same time.

However, two of the interviewees believed that the Criminal Justice Social Workers should not do the assessment because they are "*too focused on the [offender] rather than on family needs.*" Criminal Justice Social Workers "*are not trained for that, it is not their expertise. Their expertise is the Criminal Justice focus; they have a pretty narrow focus on the criminal: to protect society from criminality*", and for that reason they were not thought to be the best individuals to carry out the assessments. Interestingly, a similar answer came from a Criminal Justice Social Worker, who agreed that maybe they "*are not the best people to do the impact statement or the assessment of the family or the children point of view, because it [report] is primarily about the offender*".

Three of the respondents referred to Children & Family Social Workers as the best people to do this assessment because they "*have the ability and the skills to assess families, and can focus on families and who is at risk.*" One important issue is that it is necessary to be very careful about the manner of intervention, because it is essential to understand "*the nature of family dynamics.*" However, another interviewee said that the Child/Family Impact Assessments should not be done by Children & Family Social Workers because they "*might*

*not have a sufficiently detached view, an objective view of the situation”, while the Criminal Justice Social Workers have the “training to be able to recognise the importance of the children’s welfare, but in the context of the criminal proceedings.” Another concern is that Children & Family Social Workers already have too much work and that “it will be another new, quite big responsibility.”*

As an alternative, three respondents suggested that a Voluntary Sector Organisation could be quite useful *“to guarantee ongoing family support”*. In fact, two respondents agreed that a Voluntary Sector Organisation was the ideal group to do the assessment: *“In an ideal world you would want a child-focused voluntary sector organisation”* because they were *“contracted in specifically.”* A fourth respondent added that *“there are other reasons why it should be someone independent of [Criminal Justice and Children & Family Social Work]. It is difficult to get an overall sense and a good awareness of the function of a family or the individuals with one or two interviews. It is necessary to undertake a lot of good observation or get good detailed answers, and that requires a lot of questions to get such a picture. That means that it could be somebody who knows the family already, but at the same time has sufficient objectivity.”*

Respondents noted that it could be good to have *“a new organisation, a new body that might be statutory or not, which has the power to investigate, to look at the impact and produce a report and advocate for the child.”* However, a *“danger of having a statutory, a government organisation”,* is that *“people would see it as an agency of change, an agency of control and might be reluctant to engage with them. There is a perception that the social workers are going to take their children away.”* Equally, *“It is very important to look at the scenario in relation to the system in general and not just focus on one part of the system.”*

Another opinion was that the assessment should be done by everyone who *“is involved with the family”* and that *“Social Workers should have a common training base to do assessments of peoples’ capacities.”* Whoever does provide the service, *“in terms of assessments or in terms of giving advice or information training, it is a matter of the knowledge of the family, of that particular family, knowledge of family function, knowledge of child wellbeing and professional objectivity.”* Who actually carries out the assessment, according to this perspective, is less important.

Three interviewees mentioned that they were unsure who *“would be the most appropriate person to [conduct the impact assessments]”*. However, one said that it should be

done by “workers that were already there and might actually know the family ... the important thing is to have coordination.”

Another interviewee mentioned the importance of having both types of social workers working together: “they need to talk with each other. There is a clear gap regarding support of families, and it should not necessarily be social workers who provide that. There should be a joint piece of work done.”

As we can see, there are various opinions, and each one justifies why it is important to have a Children & Family Social Worker, a Criminal Justice Social Worker or a voluntary sector organisation do the assessments. This may mean that everyone is important and that it is vital that everyone works together, not forgetting that each group is important and has a specific task.

### ***Criminal Justice Social Workers compared to Children and Family Social Workers***

Related to the question of who is best placed to provide such information to the court is what the current distinction is between Criminal Justice and Children & Family Social Work: Child or Family Impact Assessments in court are one area in which the two roles appear to overlap.

Both Criminal Justice and Children & Family Social Workers have the same responsibility of promoting social welfare, as written in Section Twelve of the Social Work (Scotland) Act. Due to the lack of clarity in the Act about “*whether it is community welfare or the individual’s, it’s always been assumed that is the individual’s, and quite clearly children and family social workers have a primary responsibility to meet the needs of children and to protect children.*” In saying this, “*Section 27 of the Act, which set up the probation service, is built on the same Section 12 and is very clear that promoting the welfare of the community is the role of the criminal justice social workers. That tends to be referred to today as community safety or community protection.*”

The Criminal Justice Social Workers “*are local authority social workers, so they carry all the statutory duties of the local authority, one of these is child protection. So, even in their duty to promote community welfare*” they have a responsibility for child safety. They have the “*responsibility of protecting the community by supervising and trying to effect change in individual offenders’ lives, but they have the dual responsibility of protecting children.*”

However, the Children & Family Social Workers also have a “*duty to promote community wellbeing*” (item 2, Section 12). This means that “*if in the course of their duty,*

*working with individual children, they come across offending families, then they have a duty to share that.”*

The general consensus was that both groups of social workers “*should communicate - they have the same statutory duties, because the Act doesn’t distinguish who carries what.*” First of all, “*there is almost a need to underline the fact they both are social workers under the local authority, and both really ought to understand their respective roles. That should be part of their induction and should be absolutely crucial to anybody, that should be talked about periodically.*” For example, the Youth Justice specialist was trying to diminish the existing gap between the two social work teams, but this is starting to appear again: “*They need to be quite clear about the crossover in terms of role and responsibilities. At a lower level, at a practical level, workers need to have contact and there certainly needs to be a better way of guiding both in situations where there is a crossover of criminality and family issues.*”

Achieving closer working in practice, even in cases with clear overlap such as for Child and Family Impact Assessments, is not necessarily straightforward in practice: “*The government and the inspectors need to ask local authorities quite specifically how they deal with this kind of situation in strategic planning and in operational planning, what specialism do they have in child care that would recognise these criminal issues and what specialism do they have in criminal justice social workers that would recognise the childcare implication. Practically speaking if at least in every local authority there was a criminal justice social worker working in youth justice childcare, crossing the boundary and also providing consultancy, that could do.*”

### ***Awareness of child/family impact statements or assessments elsewhere***

None of the respondents was aware of any research into child/family impact statements or assessments, apart from the research the Commission for Children and Young People is doing and that of Justice Albie Sachs in South Africa. Furthermore, all agreed that it is a significant problem and has a strong and definite relationship with victims. They also shared knowledge of research about the consequences that prisoners’ children suffer “*and the cycle of deprivation that criminality is [contributing to].*”

Most of the interviewees said that they were not aware of this kind of assessment being used elsewhere. However, Finland, Italy, Greece and South Africa were countries that were referred to as places that conduct this type of assessment in court. It was said that what we

can learn from them is important and that it would be irresponsible if we did not heed these examples. Equally significant is learning from other countries and trying to find out what is possible or what is feasible to implement in Scotland.

***What should the focus of such assessments be?***

Eleven of the respondents said the focus of the assessments should be to inform the courts of the likely impact on children/families and also to be a tool for identifying and addressing need. All the respondents also mentioned the importance of recognising the impact of the sentence on the children, and *“obviously, thought should be given as to how to address the needs of that family.”* One comment was that the *“information in the first instance has to be for the court to understand the impact which the decision they make has on the children ... A screening should give some idea, but the primary purpose is much more to inform families about the possible consequence of the impact a custodial sentence might place on them and then to give them contacts [for information and support].”* On the other hand, it is very important to use the assessments to *“inform the court of the impact, to look at the impact factors of parental custody.”*

To use the assessment as a tool to address the needs of the family would be a *“great opportunity to help the family”*, but for that to happen, communication between professionals would have to improve.

It is also important to look not just at the negative impact on the children/family, but also *“how rehabilitation could improve the family situation by giving an appropriate sentence. That should be part of the social enquiry report, so they can investigate any case where custody is being considered.”* When a Social Enquiry Report is deemed unnecessary, for example where the person has been in prison before, there should nevertheless be a family impact statement: *“So, any time the court is considering custody, whether or not the person has been to jail before, there should be family impact statements.”*

Conversely, one interviewee said that the assessments should be done just to inform the courts of the likely impact on children/families. In this person’s view, if the assessment *“has been done by the social worker, there is no point in addressing need. The courts can’t deal with need. It would not assist the court if it is [not] the court that is addressing needs. But, if it is a tool for the court, it should contain what the court needs.”*

***In what circumstances should child or family impact statements be used?***

Four interviewees believed that the assessment should be used for “*sentencing and remand decisions*”, but “*somebody should only be remanded if he or she is considered a serious risk to society, themselves and others.*” However, “*if remand is working as it should, we should not have people remanded who are not considered to be a risk, but, of course, we do.*” In contrast, one respondent mentioned that “*the process of deciding whether or not to remand someone has insufficient time to attend to this kind of information. So, family impact statements, they would be introduced for sentencing not remand*”.

In all decisions, the “*needs of the child must be paramount, the children are very important.*” However, if “*we are talking about families and the impact of imprisonment on them, I think [the use of family impact statements] needs to be broader.*” Five other interviewees mentioned that the assessment should be used for the child, while three respondents said that it should be for children and parents/primary carers. However, in “*an ideal world you would want to take into consideration other family members*” including other dependants such as disabled persons.

The reason to justify the assessment being used just for children is because they usually do not have “*a huge voice. Family members, adults, potentially could have a much higher awareness of what they can do. With the fact that they don’t have a vote, they don’t necessarily have [the same means to access help as adults] ... they are very delicate creatures*”.

One respondent also mentioned that the assessment should not be just for “*any immediate family member*”, but also for “*people who have a major significance for the child.*” For that reason, the ideal would be to look at all the persons involved with the child. Another interviewee believed that the assessments must to be for any immediate family member; “*caring for elderly, disabled relatives can be important factor taken into account in some sentencing decisions. If we are going to have family impact statements they should cover the immediate family*”.

Despite most of the respondents sharing the opinion that the assessments should be for the children, others had the view that the statements should be “*for those who would be directly affected by the sentencing outcome.*”



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***What is the likelihood of judges using the information provided in a Child/Family Impact Statement?***

With regard to the likelihood of judges using the information given in the Child/Family Impact Statements, the existing ‘reasonable balance’ in Scotland was mentioned. The opinion of four respondents was that the judge would use that information, especially if the information “*contained in the report is of direct relevance and ought to be routinely offered for consideration.*” The information is also used “*if the implications for [the people concerned] are spelled out.*” However, there is also the opinion that a judge will take the information into account, but only if the information is presented to them: “*If you don’t put the information in front of the judges, they won’t see it.*”

Another opinion was that all the judges “*would use it*” because they “*like extra information.*” The judge takes it into account, but “*the child impact statement would be much more powerful, much more objective and multiple as well.*” A further opinion is that the judges use the information provided, but “*it would depends of the nature of the case and in serious cases it wouldn’t be taken into account in a significant extent*”.

Five other interviewees agreed that some judges will take it into account, and others will not. It will depend on any guidelines as well as any traditional methods they use. Some judges could be sceptical about this information: “*it really depends on [the judge’s] approach.*” No guidelines about such Statements exist at present.

One respondent noted that “*Most of the sheriffs are amenable to discussing things, they are amenable to making the public systems work better and effectively.*” In fact, respondents believed that some judges will be grateful for the information, but that they also have to think about public safety, “*the rehabilitation element, punishment.*” They do not have “*any reason not to use the information, but that does not mean that they wouldn’t give custodial sentences despite it.*”

One respondent thought that Child/Family Impact Statements “*would be difficult for judges to take into account*”, but five mentioned that they should take it into consideration. “*In a real world situation, if you are going to add that to the formula - family or child impact statement - then unless there are guidelines for judges, it would be very dubious the extent to which they would take it seriously*”. However, the importance of doing an assessment is that it is necessary “*to be sure that the judges will get good information, comprehensive information and effective analysis.*” It was also mentioned that only with legislation will a judge take

Child/Family Impact Statements into account: *“it is not an impossible task, it is a difficult task, but it is possible to do.”*

With regard to the best way of making sure that these issues are taken into account, one interviewee spoke about a recommendation to the Scottish Parliament by the McLeish Commission (2008) that *“proposes the creation of a sentencing commissioner, which is supposed to help with consistency and sentencing decisions. A sentencing commissioner would be able to issue guidelines, and what judges need to take into account. Probably that it is the best avenue for making sure that it is taken on board by judges.”* Another suggestion is that judges should have training about *“how to use the assessments.”*

A final additional comment provided by one of our respondents was: *“Just because something is not likely to be used by judges, doesn’t mean that we shouldn’t try to address it.”*

### ***Status of Child or Family Impact Statements***

One question to respondents was whether the proposed Child or Family Impact Statements should have any legal status. Arguably the closest equivalent to a Child Impact Statement at present is a Victim Impact Statement. Respondents were unclear what the legal status of these statements were, with one saying that judges had to take them into account and other two saying that they had no legal status in court, in spite of being *“in the process of changing rules”*.

Regarding the status of Child or Family Impact Statements, the answer was yes, *“the child/family impact statements should be taken into account.”* There are many factors to take into consideration, but *“they might be the same or more important,”* although that *“wouldn’t be very popular, politically.”*

Another interviewee noted that formal legal status would not be *“good for the criminal justice system.”* The impact statements *“are there as a tool to inform the sheriff when they are making the decision, but I can see you can’t [railroad] a judge into a decision”*.

### ***What would encourage judges to take such statements into account for their decisions?***

One of our respondents commented that *“the best way of changing lawyers’ ways of practising is to change the law.”* With that in mind, the best encouragement may be to create legislation. This could be done, for example, *“in an active [law] journal rather than an active court, a minor piece of legislation [precedent] to say there are now going to be child impact statements. The judges must take this into account.”* Another opinion is that if the statements

were there, *“they are taken into account; at the moment we haven’t heard them before. Judges would take them into account if they are available”*.

Another concern, however, is the many potential costs involved, for instance *“training criminal justice social workers to prepare victim impact assessments in the best interest of the children”*. As well as the fact that the whole process is *“time consuming”*, it *“seems to be the potential to slow everything down terribly”*. At present Social Workers in most cases just meet with the offender; this is *“now asking them to also go out and meet families or find out about families, to check into the system, all involves a lot more work and time. So, it is difficult. It will also slow down the court process.”*

With regard to slowing down the process it was also said that the *“defence have an opportunity to bring out such matters as what effect imprisonment is going to have on the family. In a number of cases it would be a social enquiry report, and that will bring out, perhaps in very sketchy terms, what is going happened to the family. If you are going to add on to that some further range of enquiries it has the potential at least to slow the process down. ... At the end of the day I doubt whether this is going to make a deal of great difference”*.

Another opinion is that most of the judges would use the assessments, *“especially when it is a borderline [decision]. That would be welcome for a lot of Sheriffs, because they are the ones that deal with this stuff. ... Anything that would help sheriffs is usually welcome. They also would like to see a more creative range of options [available on] what to do with people”*.

One more additional thought was an interviewee’s opinion about using the statements in all the decisions: *“I would be reluctant from everyone’s point of view, and this includes agencies involved and making their reports, to have a situation where these reports were called for as a matter of routine. Maybe scope for organisations, such as Families Outside assisting, for example, the social work department in putting forward information to the court, the consequences of the imprisonment for the family. That is my immediate thought”*.

This respondent also added his concern about how far this could be extended. *“If you introduce that as a right to be taken into account in a sentencing process ... [it] has to be contra balanced by the right of victims and their families, which may also to be viewed again as rights, not nearly as part of the general picture. I have to say I am slightly sceptical about that decision, because the case takes so long to come to a conclusion. I would believe in the maxim ‘justice delayed is justice denied’, and if you don’t actually get round to sentencing*

*someone for seven years after the offence has been committed, there is something very far wrong with the system”.*

However, an example of judges taking the impact of parental imprisonment into account was: *“I can give an example from my own experience. Yesterday we dealt with a girl who committed a very serious assault when she was 15. The case takes a year to come to court, and at the stage that she came to court, she had a four week old child. Obviously you take that into account simply because it is a total cause of change circumstances since the crime was committed. So, changes in circumstances of the offender the day the crime was committed until they are dealt with, which may include having a family or having to care for a family, is something we are always aware of. She had been sentenced for six months detention, and we decided partly because of her responsibility we put her on probation. If she hadn’t had the child, the sentence might stay at six months”.*

## Chapter IV: Discussion and Conclusions

After analysing the literature and the interviewees' opinions of the impact of parental imprisonment, we can easily understand that this is a big issue that needs to be resolved, and it is far from being finished. Our main questions were to know more about the responsibility for conducting the Child/Family Impact Assessments, to know whether the information provided is likely to be used by the judges, what the focus of the Statements should be, and in what circumstances such Statements should be used (e.g. for all defendants/offenders who are parents or just primary carers).

After the interviews, we can conclude that the majority opinion is that it is essential to assess the impact of parental imprisonment and that this is important for the judge's decision. As Bernstein (2005) stated, the consequences of having a parent under arrest are huge, and our interviewees seem to understand and be aware of that.

Seymour and Hairston (1998) noted that little is known about the consequences on children of having a parent in jail (also Boswell, 2002; Cunningham, 2001; Gabel, 1992a; Landreth & Lobaugh, 1998), but this lack of knowledge persists. What we do know is that the children who suffer because of parental imprisonment frequently exhibit coping problems (McEvoy *et al.*, 1999), stigma, embarrassment (Loucks, 2004; Cunningham, 2001; Lloyd, 1995), fear, anxiety, melancholy, regressive behaviour (Wright & Seymour, 2000), anger, blame, loneliness (Cunningham, 2001), defiance and behaviour problems (Wilmer *et al.*, 1966).

The long-term consequences of parental imprisonment are enormous, though some children are resilient and can overcome this traumatic event. Children who recover well from an adverse event can display little or even no after-effects in their adulthood (e.g. Kendall-Tackett, Williams & Finkelhor, 1993; Newman & Blackburn, 2002; Valle & Silovsky, 2002).

Some factors need to be present in the child's life for an adverse situation to be successfully overcome, such as family support (Newman & Blackburn, 2002); positive involvement of the parents (Osborn, 1990); having a secure caregiver (Murray & Farrington, 2008); social support; total support from at least one parent or substitute; good experiences at school; a strong perception of capacity and confidence; capacity to help others; problem-solving, emotional and coping skills, and extra-curricular activities (Newman & Blackburn, 2002). Conversely, stressful events (Greene *et al.*, 2000) such as parental imprisonment; elevated parental disagreement; parental separation; inconsistent supervision; parental-child hostility; child abuse; parents with psychological disorders, alcohol or drug problems, or

criminal histories; and poor friendship networks (Cicchetti & Rogosch, 1997), are all strong factors that reduce the resilience of children.

With this in mind, we can see short- and long-term consequences for children who have a parent in jail, especially if they do not have good quality support. One interviewee stated that children's bad behaviour may start earlier than the imprisonment because of lack of support. In fact, it is urgent and crucial to start intervention in early ages "*for the benefit of the offender's children*". This is also important in relation to the "*long-term impact and costs for society*."

Previous studies show that having parents involved in offending behaviour (Rowe & Farrington, 1997), or antisocial behaviour (Thornberry *et al.*, 1994; Paetsch & Bertrand, 1997), broken homes (Stattin *et al.*, 1997; Beam *et al.*, 2002; Bijleveld & Wijkman, 2009) or having a convicted mother (Van de Rakt *et al.*, 2009), are strong risk factors to future engagement in criminal behaviour. For this reason, and with regard to the consequences of parental imprisonment, it is important to try to reduce the high probability of continuing the cycle of offending. If it is crucial to involve offenders in parenting and relationship programmes in order to reduce recidivism (Rudel & Haytes, 1990) and if these programmes are only available for prisoners serving long-term sentences, then other solutions need to be created to assist these offenders, whether they are parents or not.

In spite of all the consequences for the children, it is not easy for the judges take a decision when they have to balance the crime, the punishment, public safety and impact on the family. For that reason, it is important to standardise how child or family impact statements should be taken into consideration. One suggestion to facilitate this decision was given by Constitutional Court Judge Albie Sachs in his lecture (Sachs, 2009), as an example of what has been done in South Africa. He ruled in the case of *S v M* (2007) that judges must assess the impact on all minor children if their primary caregiver was sentenced. In that way, the judges could more easily balance the full range of an offender's circumstances.

The impact of parental imprisonment is taken into account in certain circumstances, depending on the judge and the seriousness of the offence. In minor offences, non-custodial penalties such as community service could be considered more often as a means to reduce the impact on children. Ideally all judges should be made aware of the impact of parental imprisonment in all of their custody decisions. Assessments should be done on a case by case basis, always considering the consequences to the children, in accordance with Article 3.1 of

the UN Convention of the Rights of the Child. One way to do that is it to create guidelines or develop practice which ensures that such considerations are taken into account.

Another important point about parental imprisonment relates to the serious consequences to the children. In spite of these consequences being relevant, they are not as relevant to the court as other factors, such as the seriousness of the offence. The sentence is imposed as a punishment to the offender, proportional to the offence, but usually having no regard to the offender's children and family. With this in mind, it is important to consider each case individually, concerning the seriousness of the crime and frequency of the offending as well as the offender's circumstances. The simple fact is that community sentences are less likely to have a detrimental impact upon any dependants, with the exception of those cases in which the family members themselves are the victims.

With regard to the sentences differing for offenders who are parents or just for mothers/primary carers, the opinion was varied. Despite the contradictory opinions in our interviewees' answers, this does not mean that parental imprisonment is not an issue. Rather, it could mean this is an urgent problem that has not been properly taken into consideration – perhaps because “*at the moment that is not a huge priority*” and “*the importance of that will vary much [from] case to case*”.

The literature explains that the impact of parental imprisonment on children will depend on the contact that this parent has with the child and if the imprisoned parent is the primary caregiver (Cunningham, 2001). This does not mean that the imprisonment of a parent who is not the primary caregiver does not have a negative impact on the child's life (Parke & Clark-Stewart, 2002), but rather that the impact is not going to be as big.

However, we must take into consideration the extent to which parents were present in the child's life. It is crucial to know what the family environment was before the arrest (Parke & Clark-Stewart, 2002) in order to understand better what impact the parental imprisonment is likely to have. It should not be a simple rule that says that because “*someone is a parent, the sentence for a particular criminal act should automatically differ*”. There needs to be a distinction between the different cases, the seriousness of the crime and perhaps having a sentencing formula that includes the child impact and the consequences to the child. This means having a good impact statement, a proper assessment which includes whether or not a parent is a principal carer of the child. Finally, the decision should take primary consideration of the impact on the child. Some suggestions in the interviews to minimise these

consequences are for the judges to give non-custodial sentences wherever possible to parents or primary caregivers who have a real and true relation with the child.

Another point from the interviews which reflects that the impact on child/family is not always recognised in court is the perception that, in the last twenty years, Social Enquiry Reports (SERs) have not taken children's views into account, regardless of the guidelines and the legislation. With regard to SERs, the general view from respondents was that these were not nearly adequate to address this issue, especially because SERs are not always requested, and because their focus is on the offender and not on the child's need. The need to think differently when SERs are being made, taking the wider impact into account, was suggested as a good way to reduce the lack of information about the impact of the imprisonment in these reports. The gap in communication between types of Social Workers - Criminal Justice and Child & Family Social Workers - was also highlighted as an important and urgent problem to solve.

As regard to the responsibility of conducting the Child/family impact statements, most of the interviewees did not have a set answer. Rather, they agreed that there are many issues involved with the assessments. Opinion was mixed and was divided between the types of Social Workers. First, Criminal Justice Social Workers were mentioned as the most appropriate ones to do the assessments, because they were trained to do reports for court. However, their primary focus is the offender and not the needs of the children and family.

On the other hand, as the Child & Family Social Workers may already be involved with the family, they were considered the most suitable to do the assessments. However, the concern was that they may be too closely involved with the family, which could distort their view. They may also be less familiar with criminal proceedings.

Finally, an independent Voluntary Sector Organisation was also suggested, because they were "*contracted in specifically*" and can "*guarantee a family support*".

None of our respondents was aware of any research about the use of child/family impact statements in other countries. However, Finland, Italy, Greece and South Africa were mentioned as countries where such assessments are used in court. We are not clear at this stage of the research who carries out these assessments in the countries mentioned, so this is something we would like to investigate in the next stage of the research.

With regard to the focus of the assessment, the majority of the respondents mentioned that it is important for the court to know and be aware of the consequences that the imprisonment would have on the children/family, but also to use the assessment as a tool to address the



family's needs. Regarding the circumstances in which the child/family impact statements should be used, the respondents revealed diverse opinions. They disagreed whether impact assessments should be conducted for remand decisions or just at the sentencing stage, and whether these should be solely for decisions regarding primary caregivers. They agreed, however, that in all decisions the child's needs should be paramount. Ideally this should also extend to the family's needs.

The likelihood of judges using the information provided by the Child/Family Impact Statements was another question to which the respondents gave varying answers. Some interviewees mentioned that judges would use the information, depending on the nature and seriousness of the crime, though others stated that some will not take that information into account.

With these issues in mind, it seems that the best way to encourage the use of information about the impact of imprisonment on children and families is to create legislation or guidance requiring this. In the short term, however, if Child/Family Impact Statements were available, judges may well make use of them.

The aim of this work was to understand more about the issue of parental imprisonment and to examine whether the rights of an offender's dependents are taken into account for sentencing decisions. This is in keeping with article 3.1 of the UN Convention on the Rights of the Child and along the lines of the judgment in *S v M* (2007) in the South African Constitutional Courts. We have achieved this aim, as we now understand more about this issue.

The impact of imprisonment does not begin only at the moment of the incarceration and definitely does not end at the end of the imprisonment (Loucks, 2009). The imprisonment could bring many consequences to the children and to the rest of the family. These effects sometimes are so strong that the child/family can never recover from them. The impact of parental imprisonment on children, as Henriques (1996) and McGowan and Blumenthal (1978) describe, are the secondary costs of the confinement. In spite of being recognised as a problem, the real consequences remain inestimable.

The outcomes are various, such as loss of income, loss of housing, shame, victimisation, difficulties in maintaining contact (Loucks, 2009; Marshall, 2008; Myers *et al.*, 1999) and stigma (Bernstein, 2005; Centre for Children and Families in the Justice System, 2003; Cunningham, 2001; Loucks, 2004 and 2009; Greene *et al.*, 2000; Marshall, 2008; McEvoy *et*

*al.*, 1999; Miller, 2002; Myers *et al.*, 1999; Seymour, 1998; Wolleswinkel, 2002; Murray & Farrington, 2008).

If we take into account that in Scotland, per year, more children experience a parent's imprisonment than parental divorce (Loucks, 2009), we must think about the long-term consequences that this impact could bring on the child's life. Because of this, it is very important to give special attention to the children's views and make them heard (Marshall, 2008). Murray and Farrington (2008) recommend that large-scale surveys should be carried out in order to estimate the prevalence of child victims of parental incarceration, in a way to certify that appropriate strategies are under taken to support the children.

Furthermore, one of our interviewees mentioned that "*in Scotland in the last years, there have been several human rights challenges to various aspects of prisoner life*". Our question is: What about the human rights of the children and family? Are they not also important? Is it not important to consider the impact that parental imprisonment has on the children? Are the children, who represent the future of our society, not important? If their feelings are not taken into account, are we not disregarding the future of our sons and daughters?

This work is far from being finished. This report shows that there are many gaps and many issues that need to be resolved. Maybe the first step, as Justice Albie Sachs said in his lecture in Edinburgh, is "*to change the mind. Sometimes we need a little perforation to start thinking in other [ways]*". One way to complete this work is to start with the children's opinions: having their direct input would help us to understand the importance of this issue more and to work towards developing an assessment tool. We would also like to know more about how such assessments are used in other countries and to explore more what has been done there.

We are now conducting research to explore the views and experiences of children and young people who have had a family member sent to prison. This will enable us to hear the children's voice, to know what their real experiences are, what input would they want into the decisions that affect them, how would they want to provide this input and their thoughts about the arrest, trial, and imprisonment. This will be a discrete piece of work but will also have the benefit of informing ongoing work into the use of Child/Family Impact Statements in court. The findings from this small-scale project could, if appropriate, be taken forward into a fuller research project that takes into account the experiences of a larger number of children and young people from throughout Scotland. This could also include the views of other family members (partners, adult dependents) affected by imprisonment.

Beyond this, we need to develop an assessment tool to conduct Child/Family Impact Assessments and then try it out in practice. Only then will we know whether the courts will take this additional information into account and, indeed, whether the child's interests are paramount for any decision that affects them.

## References

- Action for Prisoners' Families, Prison Reform Trust, Prison Advice and Care Trust, and CLINKS (2008) *Parliamentary Briefing*. London: APF, PRT, pact, and CLINKS.
- American Correctional Association. (1990) *The female offender: What does the future hold?* Washington, DC: St. Mary's Press.
- Allison, S., Stacey, K., Dadds, V., Roeger, L., Wood, A. & Martin, G. (2003) What the family brings: Gathering evidence for strengths-based work. *Journal of Family Therapy*, 25(3), 263-284.
- Arditti, J. A., Lambert-Schute, J. & Joest, K. (2003) Saturday morning at the jail: Implications of incarceration for families and children. *Family Relations*, 52, 195-204.
- Barnhill, S. & Dressel, P. (1991) *Three generations at risk*. Atlanta, GA: Aid to Imprisoned Mothers.
- Baunach, P. J. (1985). *Children with mothers in prison*. New Brunswick, NC: Transaction Books.
- Beam, M. R., Gil-Rivas, V., Greenberger, E. & Chen, C. (2002) Adolescent problem behavior and depressed mood: risk and protection within and across social contexts. *Journal of Youth and Adolescence*, 31, 343-357.
- Beckerman, A. (1994) Mothers in prison: Meeting the prerequisite conditions for permanency planning. *Social Work*, 39(1), 9-13.
- Becker, D. & Margolin, F. (1967) How surviving parents handled their young children's adaptation to the crisis of loss. *Am J Orthopsychiatry*, 37(4), 753-757.
- Bernstein, N. (2005) *All alone in the world. Children of the incarcerated*. The New Press: New York.
- Bijleveld, C. J. H. & Wijkman, M. (2009). Intergenerational continuity in convictions: A five-generation study. *Criminal Behaviour and Mental Health*, 19, 142-155.
- Black, K. & Lobo, M. (2008) A conceptual review of family resilience factors. *Journal of Family Nursing*, 14 (1), 33-55.
- Blanco, M. (1992) *Comment Aider un Parent Détenu et Son Enfant*. In M. Mauchaud, ed., *Enfants, Parents, Prison*, book 4. Paris: Foundation de France.
- Block, J. H., Block, J. & Gjerde, P. F. (1986) The personality of children prior to divorce - a prospective study, *Child Development*, 57, 827-40.
- Bloom, B. & Steinhart, D. (1993) *Why punish the children? A reappraisal of the children of incarcerated mothers in America*. San Francisco: National Council on Crime and Delinquency.
- Boswell, G. (2002) Imprisoned fathers: The children's view. *The Howard Journal*, 41, 14-26.
- Bouregba, A. (1992) *Parents Détenus, Enfants Separés: De la Rupture au Maintien des Liens*. In M. Mauchaud, ed., *Enfants, Parents, Prison*, book 4. Paris: Foundation de France.
- Braman, D. S. (2004) *Doing time on the outside: Incarceration and family life in urban America*. Ann Arbor: University of Michigan Press.
- Bronfenbrenner, U. (1996) *A Ecologia do desenvolvimento humano: experimentos naturais e planejados* (Maria Adriana Veríssimo Veronese). Porto Alegre: Artes Médicas (original publicised in 1994).
- Broidy, L. M., Nagin, D. S., Tremblay, R. E., Bates, J. E., Brame, B., Dodge, K. A., Fergusson, D., Horwood, J. L., Laidard, R., Lynam, D. R., Moffitt, T. E., Pettit, G. S. & Vitaro, F. (2003)

- Developmental trajectories of childhood disruptive behaviors and adolescent delinquency: A six-site, cross-national study. *Developmental Psychology*, 39, 222–245.
- Brooks, R. (1992) *Self-esteem during the school years*. Pediatric clinics of North American, 39(3).
- Bureau of Justice Statistics (2006) *Sourcebook*. Washington, DC: U.S. Department of Justice. Available from: <http://www.albany.edu/sourcebook/pdf/t6282006.pdf>
- Burton, J. M. & Marshall, L. A. (2005) Protective factors for youth considered at risk of criminal behaviour: does participation in extracurricular activities help? *Criminal Behaviour and Mental Health*, 15, 46–64.
- Centre for Children and Families in the Justice System (2003) *Waiting for Mommy: Giving a Voice to the Hidden Victims of Imprisonment*. Ontario: Centre for Children and Families in the Justice System, London Family Court Clinic.
- Chesney-Lind, M. (1997) *The female offender: Girls, women, and crime*. Thousand Oaks, CA: Sage.
- Child Welfare League of America (2005) *Federal Resource Center for Children of Prisoners*. Available from: [http://www.cwla.org/programs/incarcerated/cop\\_factsheet.htm](http://www.cwla.org/programs/incarcerated/cop_factsheet.htm)
- Children of Incarcerated Parents Project (2002) *Report to the Oregon Legislature on Senate Bill 133*.
- Christensen, E. (2001) Imprisoned Parents and their Families: What Can We Do to Minimise Harmful Effects to Children? *Journal of Child Centred Practice*, 84, 85.
- Cicchetti, D. & Rogosch, F. (1997) The role of self-organisation in the promotion of resilience in maltreated children. *Development and Psychopathology*, 9, 797-815.
- Comfort, M. L. (2003) In the Tube at San Quentin: The ‘secondary prisonization’ of Women Visiting Inmates. *Journal of Contemporary Ethnography*, 32(1), 77-107.
- Cunningham, A. (2001) Forgotten families - the impact of imprisonment. *Family Matters*, 59, 34-38.
- Cummings, E. M., Davies, P. T. & Campbell, S. B. (2000) *Developmental psychopathology and family process: Theory, research, and clinical implications*. New York: Guilford Press.
- Dallaire, D. (2007) Children with incarcerated mothers: Developmental outcomes, special challenges and recommendations. *Journal of Applied Developmental Psychology*, 28(1), 15-24.
- Dallao, M. (1997) *Coping with incarceration - from the other side of the bars*. Available from [http://findarticles.com/p/articles/mi\\_hb6399/is\\_n6\\_v59/ai\\_n28695595](http://findarticles.com/p/articles/mi_hb6399/is_n6_v59/ai_n28695595)
- Daniel, B. & Wassell, S. (2002) *Assessing and Promoting Resilience in Vulnerable Children*, volumes 1, 2 and 3, London and Philadelphia, Jessica Kingsley Publishers Ltd.
- Dodge, K. A., Bates, J. E. & Pettit, G. S. (1990) Mechanisms in the cycle of violence. *Science*, 250, 1678-1683.
- Dodge, M. & Pogrebin, M. R. (2001) Collateral costs of imprisonment for women: complications of reintegration. *The Prison Journal*, 81(1), 42-54.
- Eccles, J. S. & Barber, B. L. (1999) Student council, volunteering, basketball, or marching band: what kind of extracurricular involvement matters? *Journal of Adolescent Research*, 14, 10–43.
- Emery, R. & Forehand, R. (1994) Parental divorce and children's well being a focus on resilience. In R., Haggerty, L. Sherrod, N. Garnezy & M. Rutter (Eds), *Stress, risk and resilience in children and adolescents: processes, mechanisms and interventions* (pp. 64-99). Cambridge: Cambridge University Press.

- European Action Research Committee on the Children of Imprisoned Parents (1996) *Children of Imprisoned Parents: Family Ties and Separation*. Federation des Relais Enfants Parents, France.
- Families Outside (2003) *Transport Survey: A Review of Services for Families Accessing Scottish Prisons* (2003). Edinburgh: Families Outside.
- Families Outside (2009) *Support and Information for children affected by imprisonment*. Edinburgh: Families Outside.
- Farrant, F. (2001) Waiting for no one. *Prison Report*, 55, 78.
- Farrington, D. P., Coid, J. W. & Murray, J. (2009) Family factors in the intergenerational transmission of offending. *Criminal Behaviour and Mental Health*, 19, 109–124.
- Fishman, S. (1981) Lose a loved one to incarceration: The effect of imprisonment on family members. *Personnel and Guidance Journal*, 32, 372-376.
- Freedman, E. B. (1981) *Their sisters' keepers*. Ann Arbor: University of Michigan Press.
- Friedman, S. & Esselstyn, T. (1965) The adjustment of children of jail inmates. *Federal probation*, 29, 55-59.
- Fritsch, T. A. & Burkhead, J. D. (1981) Behavioral reactions of children to parental absence due to imprisonment. *Family Relations*, 30, 83-88.
- Fogel, C. I. & Martin, S. L. (1992) The mental health of incarcerated women. *Western Journal of Nursing Research*, 14, 30–47.
- Gabel, S. (1992a) Behavioural problems in sons of incarcerated or otherwise absent fathers: The issue of separation. *Family process*, 31, 303-314.
- Gabel, S. (1992b) Children of incarcerated and criminal parents: Adjustment, behaviour and prognosis. *Bulletin of American Academy of Psychiatry Law*, 20, 33-45.
- Gabel, K. & Johnston, D. (1995) *Children of Incarcerated Parents*. New York: Lexington Books.
- Gabel, S. & Schindlecker, R. (1993) Characteristics of children whose parents have been incarcerated. *Hospital and Community Psychiatry*, 44, 656-660.
- Gable, S., Crnic, K. & Belsky, J. (1994) Co-parenting within the family system: Influences on children's development. *Family Relations*, 43(4), 380–386.
- Garbarino, J., Kostelny, K. & Dubrow, N. (1993) *No place to be a child*. Lexington, MA: DC Health and Co.
- Garmezy, N. (1991) Resilience in children's adaptation to negative life events and stressed environments. *Paediatric Annals*, 20, 459-66.
- Garmezy, N. (1993) Vulnerability and resilience. In D. C. Funder, R. D. Parke, C. Tomlinson-Keesey & K. Widaman (Eds.), *Studying lives through times: approaches to personality and development* (pp. 377–398). Washington, DC: American Psychology Association.
- Gaudin, J. & Sutphen, R. (1993) Foster care vs extended family care for children of incarcerated mothers. *Journal of Offender Rehabilitation*, 19 (3/4), 129-147.
- Getting It Right For Every Child (2008) *Using the resilience matrix to make sense of assessment information and evaluate children's needs*. Available from: <http://www.scotland.gov.uk/Resource/Doc/1141/0065059.doc>

- Gilligan, R. (1997) Beyond Permanence? The importance of resilience in child placement practice and planning. *Adoption and Fostering*, 21, 1, 12-20.
- Greene, S., Haney, C. & Hurtado, A. (2000) Cycles of pain: risk factors in the lives of incarcerated mothers and their children. *The Prison Journal*, 80 (1), 3-23.
- Grimshaw, R. & King, J. (2002) *Unlocking the Doors to Information: An assessment of information resources and support materials for families and friends of prisoners and for professionals working with them, in the UK, Europe, USA, and other English speaking countries*. London: Action for Prisoners' Families (unpublished).
- Grotberg, E. H. (1996a) *The international resilience project: findings from the research and the effectiveness of interventions*. Paper presented at the 54th Annual Convention, International Council of Psychologists, Banff, Canada.
- Grotberg, E. H. (1996b) *The international resilience project*. Paper presented at the Annual Convention of the International Council of Psychologists, Graz, Austria.
- Grotberg, E. (1997) *A guide to Promoting Resilience in Children: strengthening the human spirit*. Hague, Holland: Bernard van Leer Foundation.
- Grotberg, E. H. (2004) *Children and caregivers: The role of resilience*. Presented at the International Council of Psychologists (ICP) Convention. Jinan, China.
- Hagan, J. & Dinovitzer, R. (1999) Collateral consequences of imprisonment for children, communities, and prisoners. *The University of Chicago*, 121-162.
- Hairston, C. F. (1988) Family ties during imprisonment: Do they influence future criminal activity? *Federal Probation*, LII(1), 48-52.
- Hairston, C. F. (1991) Family ties during imprisonment: important to whom and for what? *Journal of Sociology and Social Welfare*, 18(1), 85-104.
- Hairston, C. F. (1995) Fathers in prison. In D. Johnston & K. Gables (Eds.), *Children of incarcerated parents* (pp. 31-40). Lexington, MA: Lexington Books.
- Hairston, C. F. (2002) *Prisoners and families: Parenting issues during incarceration*. Papers prepared for the "From Prison to Home" Conference (January 30-31, 2002).
- Harm, N. J. (1992) Social policy on women prisoners: A historical analysis. *Affilia*, 7(1), 90-108.
- Hanson, S. M. (2001) Family assessment and intervention. In S. M. Hanson (Ed.), *Family health care nursing: Theory, practice, and research* (pp. 170-195). Philadelphia: F.A. Davis.
- Haz, A. M., Castillo, R. & Aracena, M. (2003) Adaptación preliminar del instrumento Multidimensional Trauma Recovery and Resilience (MTRR) en una muestra de madres maltratadoras físicas con historia de maltrato físico y madres no maltratadoras con historia de maltrato físico. *Child Abuse & Neglect*, 27, 807-820.
- Heather, N. (1977) Personal illness in lifers and the effects of long term indeterminate sentences. *British Journal of Criminology*, 17, 378-386.
- Hennebel, L. C., Fowler, V. & Costall, P. (2002) *Supporting Families of Drug Dependent Offenders*. London: European Network of Drug Services in Prison (ENDSP) and Cranstoun Drug Services.

- Henriques, Z. W. (1996) Imprisoned mothers and their children: Separation-reunion syndrome dual impact. *Women & Criminal Justice*, 8, 77-95.
- Holt, N. & Miller, D. (1972) *Explorations in Inmate-Family Relationships*. California Department of Corrections Research Report 46.
- Howard, C. (2003) *Main Issues Facing Brazil's Women Prisoners* (unpublished).
- Howard, S. (2000) *Fathering behind bars*. Paper presented at the Focus on Fathering Symposium at 7th Australian Institute of Family Studies Conference, Sydney, 24 - 26 July.
- Hurley, W. & Dunne, M. (1991) Psychological distress and psychiatric morbidity in women prisoners. *Australia and New Zealand Journal of Psychiatry*, 25, 461-470.
- Jarvis, A. (2007) Children of incarcerated parents: an application of the stress process model. Thesis prepared for the degree of Master of Arts. University of North Texas.
- Johnston, D. (1991) *Jailed Mothers*. Pasadena, CA: Pacific Oaks Center for Children of Incarcerated Parents.
- Johnston, D. (1992) *Children of offenders*. Pasadena, CA: Pacific Oaks Center for Children of Incarcerated Parents.
- Johnston, D. (1995a) Effects of parental incarceration. In K. Gabel & D. Johnston (Eds.), *Children of incarcerated parents* (pp. 59-88). New York: Lexington Books.
- Johnston, D. (1995b) The care and placement of prisoners' children. In K. Gabel & D. Johnston (Eds.), *Children of incarcerated parents* (pp. 103-123). New York: Lexington Books.
- Kampfner, C. (1995) Post-Traumatic Stress Reactions in Children of Imprisoned Mothers. In K. Gabel & D. Johnston (Eds.), *Children of Incarcerated Parents* (pp. 89-102). New York: Lexington Books.
- Kauffman, K. (2001) Mothers in prison. *Corrections Today*, 62-65.
- Karp, S. (2007) Collateral damage to kids. *Catalyst Chicago*, XVIII (7): 6-10.
- Kazdin, A. (1987) Treatment of antisocial behavior in children: Current status and future directions. *Psychological Bulletin*, 102, 187-203.
- Kendall-Tackett, Williams, L. M. & Finkelhor, D. (1993) Impact of sexual abuse on children: a review and synthesis of recent empirical studies. *Psychological Bulletin*, 113, 164-180.
- Kendler, K., Neale, M., Kesler, R., Heath, M. & Eaves, L. (1992) Childhood parental loss and adult psychopathology in women - a twin study perspective, *Archives of General Psychiatry*, 49, 109-116.
- King, R. (1994) *A Year in Holloway: The Population Survey 1993-1994*. London: Psychology Department, HMP Holloway.
- Lamb, M. E. (2002) Infant-father attachments and their impact on child development. In C. S. Tamis-LeMonda & N. Cabrera (Eds.), *Handbook of father involvement: Multidisciplinary perspectives* (pp. 93-118). Lawrence Erlbaum Associates, New Jersey.
- Landreth, G. L. & Lobaugh, A. F. (1998) Filial therapy with incarcerated fathers: effects on parental acceptance of child, parental stress, and child adjustment. *Journal of Counselling & Development*, 76, 157-165.
- Lanier, C. (1993) Affective states of fathers in prison. *Justice Quarterly*, 19(1), 46-66.



- Larzelere, R. E. & Patterson, G. R. (1990) Parental management: Mediator of the effect of socioeconomic status on early delinquency. *Criminology*, 28 (2), 301-324.
- Lee, A. F. (2005) Children of inmates: What happens to these unintended victims? *Corrections Today*, 67(3), 84-88.
- Light, R. (1989) *Prisoners' Families: Keeping in Touch*. Bristol: Bristol Centre for Criminal Justice.
- Lloyd, E. (1995) *Prisoners' Children: Research, Policy and Practice*, Save the Children, London.
- Loper, A. B. (2006) How do mothers in prison differ from non-mothers? *Journal of Child and Family Studies*, 15 (1), 83-95.
- Loper, A. B. & Tuerk, E. H. (2006) Parenting programs for incarcerated parents. *Criminal Justice Policy Review*, 17(4), 407-427.
- Loucks, N. (2004) *Prison without bars: Needs, support and good practice for work with prisoners' families*.
- Loucks, N. (2009) *Children of imprisoned parents*. Paper presented at the Cross Party Group on Children and Young People, Edinburgh, Scotland.
- Lowenstein, A. (1986) Temporary single parenthood: The case of prisoners' families. *Family Relations*, 36, 79-85.
- Luthar, S. S. & Cicchetti, D. (2000) The construct of resilience: Implications for interventions and social policies. *Development & Psychopathology*, 12, 857-885.
- Marshall, K. (2008) *Not seen. Not heard. Not Guilty. The rights an status of the children of prisoners in Scotland*. Scotland's Commissioner for Children and Young People (SCCYP): Edinburgh.
- Martin, M. (1997) Connected mothers: A follow-up study of incarcerated women and their children. *Women & Criminal Justice*, 8, 1-23.
- Masten, A. S. & Garmezy, N. (1985) Risk, vulnerability, and protective factors in developmental psychopathology. In B. B. Lahey & A. E. Kazdin (Eds.), *Advances in clinical child psychology* (Vol. 8, pp. 1-52). New York: Plenum.
- Masten, A., Best, K. & Garmezy, N. (1990) Resilience and development: contributions from the study of children who overcame adversity. *Development and Psychopathology*, 2, 425 - 44.
- McConnell, J., Deacon, S. & Baillie, J. (2001) Report: *For Scotland's children. Better integrated children's services*. Edinburgh: Scottish Executive.
- McCubbin, H. I. & McCubbin, M. A. (1988) Typologies of resilient families: Emerging roles of social class and ethnicity. *Family Relations*, 37(3), 247-254.
- McCubbin, M. A. & McCubbin, H. I. (1996) Resiliency in families: A conceptual model of family adjustment and adaptation in response to stress and crisis. In H. McCubbin, A. Thompson & M. McCubbin (Eds.), *Family assessment: Resiliency, coping, and adaptation: Inventories for research and practice* (pp. 1-64). Madison: University of Wisconsin.
- McEvoy, K., O'Mahoney, D., Horner, C. & Lyner, O. (1999) The Home Front: Families of Politically Motivated Prisoners in Northern Ireland. *British Journal of Criminology*, 39 (2), 175-197.
- McGowan, B. & Blumenthal, K. (1978) *Why punish the children? A study of the children of women prisoners*. Hackensack, NJ: National Council on Crime and Delinquency.

- McLeish Commission (2008) *Scotland's Choice: Report of the Scottish Prisons Commission*. Edinburgh: Scottish Prisons Commission for the Scottish Government.
- Miller, R. R. (2002) Various implications of the "race to incarcerate" on incarcerated African American men and their families. In O. Harris & R. Miller (Eds), *Impacts of incarceration on the African American Family*. (pp. 3-15). U.S.A.: Transaction Publishers.
- Mrazek, P. J. & Mrazek, D. A. (1987) Resilience in child maltreatment victims: a conceptual exploration. *Child Abuse and Neglect*, 11, 357-366.
- Morris, P. (1965) *Prisoners and their families*. New York: Hart.
- Mumola, C. (2000) *Incarcerated parents and their children*. Washington, DC: U.S. Department of Justice.
- Murray, J. & Farrington, D. P. (2008) The effects of parental imprisonment on children. *The University of Chicago*.
- Myers, B. J., Smarsh, T. M., Amlund-Hagen, K. & Kennon, S. (1999) Children of incarcerated mothers. *Journal of Child & Family Studies*, 8(1), 11-25.
- National Council on Crime and Delinquency. (NCCD, 2004) *The National Council on Crime and Delinquency's Evaluation of the Project Development of National Institute of Correctional/Child Welfare League of America's Planning and Intervention Sites Funded to Address the Needs of children of incarcerated Parents: Final Report*. Available from: [http://www.cwla.org/programs/incarcerated/cop\\_pubnccd.htm](http://www.cwla.org/programs/incarcerated/cop_pubnccd.htm)
- Newman, T. & Blackburn, S. (2002) *Transitions in the lives of children and young people: resilience factors*. Report for Scottish executive education and young people research unit.
- Osborn, A. (1990) Resilient children: a longitudinal study of high achieving socially disadvantaged children. *Early Child Development and Care*, 62, 23-47.
- Paetsch, J. J. & Bertrand, L. D. (1997) The relationship between peer, social, and school factors, and delinquency among youth. *Journal of School Health*, 67, 27-32.
- Palmer, T. (1996) Programmatic and nonprogrammatic aspects of successful intervention. In A. Harland (Ed.), *Choosing options that work: Defining the demand and evaluating the supply* (pp. 131-182). Thousand Oaks, CA: Sage.
- Palmer, N. (1997) Resilience in adult children of alcoholics. *Health and Social Work*, 22, 3, 201-9.
- Parke, R. & Clark-Stewart, K. A. (2002) *Effects of parental incarceration on young children*. Unpublished manuscript. Available from: [http://www.urban.org/uploadpdf/410267\\_Parental%20Incarceration](http://www.urban.org/uploadpdf/410267_Parental%20Incarceration)
- Paton, L. & Munro, G. (2006) *Children's Rights Impact Assessment: The SCCYP Model*. Scotland's Commissioner for Children and Young People.
- Payne, W. C. (1997) The Child and Prison. *Prison Service Journal*, 113, 4243.
- Peart, K. & Asquith, S. (1992) *Scottish Prisoners and their Families: The Impact of Imprisonment on Family Relationships*. Edinburgh: Scottish Forum on Prisons and Families.
- Phillips, K. (1985) Into the Poverty Trap. *Nursing Mirror*, 160(10), 18.
- Phillips, S. D., Burns, B. J., Wagner, H. R., Kramer, T. L. & Robbins, J. M. (2002) Parental Incarceration Among Adolescents Receiving Mental Health Services. *Journal of Child and Family Studies*, 11 (4), 385-399.

- Pollock-Byrne, J. M. (1992) Women in prison: Why are their numbers increasing? In P. J. Benekes & A. V. Merlo (Eds.), *Corrections: Dilemmas and directions* (pp. 79-95). Cincinnati, OH: Anderson.
- Popenoe, D. (1996) *Life without father: Compelling new evidence that fatherhood and marriage are indispensable for the good of children and society* (p. 163). New York, NY: The Free Press; Stanton, G. T. (2003).
- Prendergast, M., Wellisen, J. & Falkin, G. (1995) Assessment of and services for substance abusing women offenders in community and correctional settings. *The Prison Journal*, 75, 240-256.
- Prisoners' Families Helpline (2009) *Talking to Children about Imprisonment*. Available from: <http://www.prisonersfamilieshelpline.org.uk/>
- Rasche, C. (2000) The dislike of female offenders among correctional officers. In R. Muraskin (Ed.), *It's a crime: Women and justice* (pp. 237-252). Upper Saddle, NJ: Prentice Hall.
- Robertson, O. (2007) *The impact of parental imprisonment on children*. Geneva: Quaker United Nations Office (2007).
- Rosenberg, J. & Wilcox, W. B. (2006) *The Importance of Fathers in the Healthy Development of Children*. USA: U.S. Department of Health and Human Services. Available from: <http://www.childwelfare.gov/pubs/usermanuals/fatherhood/fatherhood.pdf>
- Rowe, D. C. & Farrington, D. P. (1997) The familial transmissions of criminal convictions. *Criminology* 35, 177-201.
- Rudel, C. & Hayes, M. (1990) Behind no bars. *Children Today*, 19, 20-23.
- Rutter, M. (1987) Psychosocial resilience and protective mechanisms. *American Journal of Orthopsychiatry*, 57(3), 316-331.
- Rutter, M. (1993) Resilience: some conceptual considerations. *Journal of Adolescent Health*, 14: 626-31.
- Rutter, M., Giller, H. & Hagell, A. (1998) *Antisocial Behavior by Young People*. New York: Cambridge University Press.
- Rutter, M. (1999) Resilience concepts and findings: Implications for family therapy. *Journal of Family Therapy*, 21(2), 119-144.
- Sachs, A. (2009) Lecture by Justice Albie Sachs for the Scottish Commission for Children and Young People, Edinburgh 24 June 2009.
- Sack, W. (1977) Children of imprisoned fathers. *Psychiatry*, 40, 163-174.
- Sack, W. H., Seidler, J. & Thomas, S. (1976) The children of imprisoned parents: A psychosocial exploration. *American Journal Orthopsychiatry*, 46(4), 618-628.
- Sameroff, A., Gutman, L. M. & Peck, S. C. (2003) Adaptation among youth facing multiple risks: Prospective research findings. In S. S. Luthar (Ed.), *Resilience and vulnerability: Adaptation in the context of childhood adversity* (pp. 364-391). New York: Cambridge University Press.
- Sandifer, J. L. (2008) Evaluating the efficacy of parenting program for incarcerated mothers. *The Prison Journal*, 88 (3), 423-445.
- Scottish Government (2008) *An overview of the Getting it right approach showing how the practice model & tools can be used locally to complement practitioners' own materials & processes*. Edinburgh.
- Scottish Prison Service (2002) *Making a Difference*. Edinburgh: SPS.

- Segal, J. & Yahras, H. (1988) *A child's journey*. New York: McGraw Hill.
- Seymour, C. B. (1998) Children with parents in prison: Child welfare policy, program, and practice issues. *Child Welfare*, 77, 5, 469–493.
- Seymour, C. & Hairston, C. F. (1998) *Children with Parents in Prison: Child Welfare, Policy, Program and Practice Issues*. New Brunswick, USA: Transaction Publishers.
- Shorer, C. (1965) The Gansers Syndrome. *British Journal of Criminology*, 5, 120-131.
- Simmons, C. W. (2000) *Children of incarcerated parents* (CRB Vol. 7, No. 2). Sacramento: California Research Bureau.
- Simmons, C. W. (2003) *California law and the children of prisoners*. California Research Bureau, California State Library.
- Snell, T. L. (1994) *Women in prison (NCJ 145321)*. Washington, DC: Bureau of Justice Statistics.
- Snyder-Joy, Z. K. & Carlo, T. (1998) Parenting through Prison Walls: Incarcerated Mothers and Child Visitation. In S. Miller (Ed.), *Crime Control and Women*. Newbury Park, CA: Sage Publications, Inc.
- Snyder, Z. K., Carlo, T. A. & Coats Mullins, M. M. (2001) Parenting from prison: An examination of a children visitation program at a women's correctional facility. *Marriage & Family Review*, 32(3/4), 33-62.
- Social Exclusion Unit (2002) *Reducing Reoffending by ExPrisoners*. London: Home Office.
- Sroufe, L. A. (1988) The role of infant-caregiver attachment in development. In J. Belsky & T. Nezworski (Eds.), *Clinical implications of attachment* (pp. 18-38). Hillsdale, NJ: Erlbaum.
- Stanton, S. (1980) *When mothers go to jail*. Boston, MA: DC Health.
- Stattin, H., Romelsjo, A. & Stenbacka, M. (1997) Personal resources as modifiers of the risk for future criminality. *British Journal of Criminology*, 37, 198–223.
- S v M* (2007) *Constitutional Court of South of Africa*. S v M (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC); (26 September 2007).
- The Osborne Association (1993) How can I help? Working with children of incarcerated parents. In *Serving special children* (vol. 1). New York: The Osborne Association.
- Thompson, P. J. & Harm, N. J. (2000) Parenting from prison: Helping children and mothers. *Issues in Comprehensive Pediatric Nursing*, 23(2), 61-81.
- Thornberry, T. P., Lizotte, A. J., Krohn, M. D., Farnworth, M. & Sung, J. J. (1994) Delinquent peers, beliefs, and delinquent behaviour: a longitudinal test of interactional theory. *Criminology*, 32, 47–84.
- Travis, J., Solomon, A. L. & Waul, M. (2001) *From prison to home: The Dimensions and Consequences of Prisoner Reentry*. The Urban Institute.
- Ungar, M. (2004) A constructionist discourse on resilience. Multiple contexts, multiple realities among at-risk children and youth. *Youth & Society*, 35 (3), 341-365.
- U. S. Department of Justice, Bureau of Justice Statistics (1998) *Women offenders: Programming needs and promising approaches*. Washington, DC: Government Printing Office.
- Valle, L. A. & Silovsky, J. F. (2002) Attributions and adjustment following child sexual and physical abuse. *Child Maltreatment*, 7, 9-24.

- Van de Raky, M., Nieuwbeerta, P. & Apel, R. (2009) Association of criminal convictions between family members: Effects of siblings, fathers and mothers. *Criminal Behaviour and Mental Health*, 19, 94–108.
- Wallerstein, J., Corbin, S. & Lewis, J. (1988) Children of divorce: a ten year study. In E. Hetherington & J. Arasteh (Eds.), *Impact of Divorce, Single Parenting and Step-Parenting on children* (pp. 197-214). Hillsdale NJ: Erlbaum.
- Walmsley, R. (2005) *World Prison Population List*. 6th ed. London: International Centre for Prison Studies, Kings College London.
- Walsh, F. (1998) *Strengthening family resilience*. New York: Guilford.
- Walsh, F. (2002) A family resilience framework: Innovative practice applications. *Family Relations*, 51(2), 130-137.
- Wang, M., Haertel, D. & Walberg, H. (1994) Educational resilience in inner cities. In M. Wang & E. Gordon (Eds), *Educational resilience in inner-city America* (pp. 45-72). Lawrence Erlbaum Associates: New Jersey.
- Watkins, R. E. (2000) A social psychological examination of the relationship between athletic participation and delinquent behaviour [Abstract]. *Dissertation Abstracts International*, 60, 49-69.
- Wilmer, H. A., Marks, I. & Pogue, E. (1966) Group treatment of prisoners and their families. *Mental Hygiene*, 50, 380-389.
- Woldoff, R. A. & Washington, H. M. (2007) Arrested contact. The criminal justice system, race, and father engagement. *The Prison Journal*, 88(2), 179-206.
- Wolin, S. J. & Wolin, S. (1993) *The resilience self*. New York: Villard Books.
- Wolleswinkel, R. (2002) Children of imprisoned parents. In J. C. M. Willems (Ed.), *Developmental and autonomy rights of children: empowering children, caregivers and communities* (191-207). Oxford/New York: Intersentia.
- Wright, L. E. & Seymour, B. S. (2000) *Working with Children and Families Separated by Incarceration: A Handbook for Child Welfare Agencies*. CWLA Press, Washington.