

# WOMEN IN PRISON PROJECT

## Correctional Association of New York

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### Imprisonment and Families Fact Sheet

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- Nationally, nearly 8.7 million children have parents under correctional supervision (either in prison or jail, or on probation or parole). Almost 1.8 million children have a parent in state or federal prison.<sup>1</sup>
- Nationally, more than 65% of women in state prisons and 55% of men in state prisons report being parents of children under 18. Women inmates are more likely than male inmates to have more than one child. Nationwide, 22% of minor children with a parent in prison are under five years old.<sup>2</sup>
- As of January 2008, mothers and fathers in New York's prisons reported having over 80,800 children.<sup>3</sup>
- More than 72% of New York's incarcerated women report being parents, compared to about 58% of men.<sup>4</sup>
- More than 10,000 children have a mother in a jail or prison in New York State.<sup>5</sup>
- Nationally, about 64% of mothers in state prisons report living with their children before prison, compared to 44% of fathers.<sup>6</sup>
- One-third of mothers lived alone with their children in the month prior to arrest.<sup>7</sup> One in five children of incarcerated mothers witnessed their mother's arrest.<sup>8</sup>
- An estimated 25% of women in prison nationwide are pregnant at the time of their arrest or have given birth at some point during the year prior to their incarceration.<sup>9</sup> About 5% of female jail inmates nationwide reported being pregnant at the time of their incarceration.<sup>10</sup>
- 47% of women and 37% of men in prison in the U.S. report having an immediate family member in prison.<sup>11</sup>
- 49% of parents in prison nationwide are African American. 29% are white. 19% are Latino.<sup>12</sup>
- Nationally, African American children are nearly nine times more likely to have a parent in prison than white children. Latino children are three times more likely than white children to have an incarcerated parent.<sup>13</sup>
- 54% of mothers and 57% of fathers in state prisons nationwide report never having had a visit with their children since they entered prison. 60% of incarcerated mothers and 40% of incarcerated fathers report that they maintain some form of weekly contact with their children.<sup>14</sup>
- 88% of fathers in New York State prisons report that their children live with their mothers, while only 20% of incarcerated mothers in New York report that their children live with their fathers.<sup>15</sup>
- Over 74% of incarcerated mothers report that their children live with a grandparent or other relative and 18% report that their children live in foster homes or agencies. The corresponding figure for incarcerated fathers is less than 1%.<sup>16</sup>
- Nationally, almost 90% of men in state prisons report that their children are living with their mothers. In comparison, 28% of incarcerated women report that their children are living with their fathers. More than 10% of mothers in state prisons report that their children are in foster care.<sup>17</sup>
- 87% of incarcerated women who spent their childhood in foster care or institutions report having prior histories of abuse.<sup>18</sup>
- The incarceration of a primary caretaker is traumatic and disruptive for children. Children of incarcerated mothers will often move at least once and live with at least two different caretakers while their mother is in prison.<sup>19</sup>

- Without appropriate support, children of incarcerated parents are more likely to have difficulties in school, experience emotional troubles, and become involved in the criminal justice system themselves.<sup>20</sup>
- Almost 41% of New York’s women inmates are incarcerated at Albion Correctional Facility, more than 370 miles away from New York City, where a majority of incarcerated people are from and where their children still reside.<sup>21</sup>
- Many visiting rooms in New York’s prisons have limited space and little opportunity for parents and children to meaningfully interact with each other.
- 62% of parents in state prisons and 84% of parents in federal prisons are held over 100 miles from their last residence. In federal prisons, about 43% of parents are held over 500 miles from their last residence.<sup>22</sup>
- Maintaining family ties can mitigate the destructive aspects of parental incarceration by helping children process their mother’s absence, easing family reunification when a mother returns home, bolstering children’s well-being and healthy development, and decreasing the likelihood that a mother will return to prison.<sup>23</sup>
- New York’s Adoption and Safe Families Act (ASFA)<sup>24</sup> almost always requires a foster care agency to file a petition to terminate parental rights if a child has been in foster care for 15 of the last 22 months. The median sentence for women in New York’s prisons is 36 months.<sup>25</sup>
- To prevent a termination from being filed, ASFA requires parents to fulfill certain responsibilities within 15 months. These responsibilities include maintaining consistent contact with and finding an appropriate non-foster care home for children.<sup>26</sup> ASFA’s requirements apply to incarcerated and non-incarcerated parents in the same way, even though it is considerably harder for incarcerated parents to fulfill legal responsibilities from prison.
- Unlike other mothers, mothers in prison can only make collect calls for short periods of time during certain limited hours each day<sup>27</sup> and often do not receive correspondence in a timely fashion, which can cause them to miss important court dates and deadlines. Additionally, incarcerated mothers have limited opportunities to visit with their children; little or no ability to participate in foster care planning meetings; and difficulty accessing their lawyers and participating meaningfully in Family Court proceedings.
- There are limited exceptions to ASFA’s filing requirements, one of which allows a foster care agency to refrain from seeking to terminate parental rights if the agency documents a “compelling reason” why termination is not in the best interest of the child.<sup>28</sup>
- This exception is difficult for agencies to use where a parent is in prison because few opportunities exist for caseworkers to learn about an incarcerated parent’s effort to contact and plan for her child, or to see evidence of a strong bond between an incarcerated parent and her child, even where one exists.
- Termination of parental rights means that parents lose all legal ties to their children forever. After termination, parents have no right to find out about their children’s well-being, where they live, or even if they have been adopted. Because more children of incarcerated mothers are in foster homes than children of incarcerated fathers, ASFA likely has a disproportionate impact on mothers in prison.<sup>29</sup>
- As a result of the inflexible way that ASFA is implemented when a parent is in prison, incarcerated mothers are at serious and disproportionate risk of losing their parental rights – even in cases where the true best interest of the child is to keep reunification as the goal for the family.

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- <sup>1</sup> Nationwide, 65% of women and 55% of men in state prison report being parents. On average, mothers in state prisons report having at least two and a half children; on average, fathers in state prisons report having at least two children. It seems fair to assume that a similar percentage of men and women in jail and on parole and probation are parents and that male and female probationers, parolees and jail inmates across the country have similarly sized families as male and female state inmates. This figure was calculated by applying these percentages to the number of male and female probationers, parolees and jail inmates in 2006. See Christopher J. Mumola, *Incarcerated Parents and Their Children*, Bureau of Justice Statistics (August 2000) (hereinafter *Incarcerated Parents*). William J. Sabol, Heather Couture and Paige M. Harrison, *Prisoners in 2006*, Bureau of Justice Statistics, U.S. Department of Justice (December 2007), at 3. William J. Sabol, Todd D. Minton and Paige M. Harrison, *Prison and Jail Inmates at Midyear 2006*, Bureau of Justice Statistics, U.S. Department of Justice (June 2007, Revised 6/27/07), at 5. Parole and probation statistics derived from Lauren E. Glaze and Thomas P. Bonczar, *Probation and Parole in the United States, 2006*, BJS (December 2007), at 2, 4, and 6.
- <sup>2</sup> *Incarcerated Parents*, at 2.
- <sup>3</sup> Figures derived from *Hub System: Profile of Inmate Population Under Custody on January 1, 2007*, State of New York Department of Correctional Services (June 2007), at 17 (hereinafter *DOCS Hub Report 2007*).
- <sup>4</sup> *Id.*
- <sup>5</sup> *DOCS Hub Report 2007*, at 17. *Table 3: Number of Living Children, Female Inmates Under DOCS' & Willard Custody on 1/1/08*, DOCS. Jail figures estimated based on data reported from women under DOCS custody.
- <sup>6</sup> *Incarcerated Parents*, at 1.
- <sup>7</sup> *Incarcerated Parents*, at 4.
- <sup>8</sup> Denise Johnston, "The Care and Placement of Prisoners' Children," *Children of Incarcerated Parents* (Gabel and Johnston, eds., New York: Lexington Books, 1995) (hereinafter *Children of Incarcerated Parents*, Gabel and Johnston).
- <sup>9</sup> J. D. Wooldredge and K. Masters, "Confronting Problems Faced by Pregnant Inmates in State Prisons," *Crime and Delinquency*, Vol. 39, No 2. (April 1993), at 195.
- <sup>10</sup> Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistics, U.S. Department of Justice (November 2006), at 1.
- <sup>11</sup> T. Snell and D. Morton, *Women in Prison, Survey of State Inmates 1991*, Bureau of Justice Statistics, U.S. Department of Justice (1991), at 5.
- <sup>12</sup> *Incarcerated Parents*, at 3.
- <sup>13</sup> *Id.*
- <sup>14</sup> *Id.*, at 5.
- <sup>15</sup> *Collateral Casualties: Children of Incarcerated Drug Offenders in New York*, Human Rights Watch (2002).
- <sup>16</sup> *Id.*
- <sup>17</sup> *Incarcerated Parents*, at 5.
- <sup>18</sup> *Prior Abuse Reported by Inmates and Probationers*, Bureau of Justice Statistics, U.S. Department of Justice (April 1999), at 2.
- <sup>19</sup> *Children of Incarcerated Parents*, Gabel and Johnston.
- <sup>20</sup> See *The Study of the Needs of Children Whose Parents Are Incarcerated*, House Document No. 32, Virginia Commission on Youth (1993). See Denise Johnston, "Effects of Parental Incarceration," in *Children of Incarcerated Parents* (Gabel and Johnston, eds., New York: Lexington Books, 1995). See J. Mark Eddy and John B. Reid, *The Antisocial Behavior of the Adolescent Children of Incarcerated Parents: A Development Perspective*, papers prepared for *From Prison to Home*, Conference, January 30-31, 2002, hosted by U.S. Department of Health and Human Services. See Cynthia Seymour, "Children with Parents in Prison: Child Welfare Policy, Program, and Practice Issues," in *Child Welfare: Special Issue, Children with Parents in Prison*, Child Welfare League of America (Sept.-Oct. 1998).
- <sup>21</sup> Almost 60% of women under state custody are from New York City and its suburbs. *DOCS Hub Report 2007*, at 3 and 10.
- <sup>22</sup> *Incarcerated Parents*, at 5.
- <sup>23</sup> Adela Beckerman, "Charting a Course: Meeting the Challenge of Permanency Planning for Children with Incarcerated Mothers," in *Child Welfare: Special Issue, Children with Parents in Prison* (Child Welfare League of America, Sept.-Oct. 1998), at 517 and 518. See Inger P. Davis, John Landsverk, Rae Newton, and Williams Ganger, "Parental Visiting and Foster Care Reunification," *Children and Youth Services Review*, Vol. 18, Nos. 4/5 (1996), at 363-382. See Judge Leonard P. Edwards, "Judicial Oversight of Parental Visitation in Family Reunification Cases," *Juvenile and Family Court Journal* (Summer 2003).
- <sup>24</sup> Codified in sections of New York State's Social Services and Domestic Relations Law, and Family Court Act.
- <sup>25</sup> *Table 1. Age & Minimum Sentence and Table 2. Number of Female Offenders Undercustody at Willard, Statistics on Female Offenders*, prepared by New York State Department of Correctional Services on 1/25/08.
- <sup>26</sup> N.Y. Soc. Serv. L. §§ 384-b(7)(a)&(7)(c).
- <sup>27</sup> Until very recently, collect calls from prison cost up to 600% more than collect calls placed from outside prison. See "Spitzer Orders Sharp Cuts in Cost of Prisoner Phone Calls," *New York Times*, January 9, 2007. See [www.ccr-ny.org/v2/education/program.asp?ObjID=iSu5LiaCRd&Content=111](http://www.ccr-ny.org/v2/education/program.asp?ObjID=iSu5LiaCRd&Content=111).
- <sup>28</sup> N.Y. Soc. Serv. L. § 384-b(3)(1)(i)(B).
- <sup>29</sup> *Collateral Casualties: Children of Incarcerated Drug Offenders in New York* (Human Rights Watch, 2002). This report found that more than 18% of mothers in New York State prisons who participated in the study reported that their children were living in non-kinship foster care. The corresponding figure for incarcerated fathers was less than 1%.