



ISSUE BRIEF

STRONG FAMILIES

What should child protection agencies consider when **working with children whose parent or primary caregiver is incarcerated?**

About [1.8 million people](#) in the United States were incarcerated in state or federal prisons or local jails in 2020, according to the U.S. Department of Justice. Some are parents or primary caretakers of children who are involved — or may become involved — with the child welfare system. The Annie E. Casey Foundation Kids Count Data Center reports that in fiscal year 2019-2020, [an estimated 4.9 million children](#) lived with a parent or guardian who served time in jail or prison after the child was born, with higher rates among Black children (12%) and American Indian/Alaska Native (16%) children when compared to white children (6%). Although the vast majority of people in prison are male, the rate of [growth in female imprisonment](#) has been about double that of men since 1980.

It is unknown exactly how many children in the child welfare system have an incarcerated parent, but [estimates range from 15% to 20%](#). All children have a right to a relationship and reunification with their parents when safe and possible. [Evidence](#) suggests that children in foster care who maintain contact with their biological parents have better mental health outcomes than those who do not. Child protection agency leaders have an opportunity to improve the lives of the



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children in their care and ensure that families affected by parental incarceration receive the same respect and support as other families.

This brief discusses some of the issues that child protection agencies should consider to better support children whose parent or primary caregiver is incarcerated, provides some historical context for racial disparities in incarceration rates, explores the rights of incarcerated parents and their children, and includes questions for leaders to consider about their agency's policies and practices.^{1,2} To learn about strategies that support family time, please see "[How can child protection agencies support children spending time with their parents who are incarcerated?](#)"

Better data are needed

Most child protection agencies do not track parental incarceration. It sometimes is cited as a reason for entry into foster care; however, if there are other factors present, incarceration may not be noted. Agency data are even less likely to differentiate whether parents became incarcerated before their children came to the system's attention or after they entered care.³ Caseworkers may be uncomfortable asking about incarceration, and families may be reluctant to volunteer this information.

THE ROLE FOR CHILD WELFARE

This issue brief concerns the well-being of children whose parent or primary caregiver is incarcerated at any point while the child is involved with the child welfare system. **This should not be taken to imply that incarceration should necessitate an open child welfare case.** In most cases, when a parent or primary caregiver is incarcerated, children can and should be safely cared for by other family members, without additional family separation or involvement of the child welfare system. The child protection agency should support ongoing visits and engagement with the parent or primary caregiver who is incarcerated.

Yet identifying where parents are, including whether and where they are incarcerated (including young parents in juvenile detention facilities), is an essential first step to fulfilling the legal mandate of reasonable efforts to reunify families. Information about individual parents who are incarcerated should be used to better support children's ongoing relationships with their parents, provide services to the family, and promote family reunification.⁴ Capturing data about parental

If you had just looked at me on paper when I was arrested, you would not have thought I could care for my daughter. But I was a loving dad. My connection to my daughter was very important. I had all her doctors' phone numbers in my head — I knew all the names of her medications, the doses, the side effects. I was my daughter's primary caregiver, but I wasn't listened to about her placement. I wasn't valued, heard, or seen. I asked for a seat at the table, but I got shut out.

I never gave up. As soon as I got out of prison, I went right to the court and asked for a parenting plan, starting with supervised visits. I had to earn my way back into her life, and it was hard. But I ended up getting custody a year later. My daughter felt safe and loved with me. She knew how cherished she was.

— EDDIE TORRES,
FATHER AND ADVOCATE

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incarceration at a systems level also is critical to monitor compliance with related policies, understand the experiences of the children and their families, and improve services and outcomes.

Questions to consider:

- Does our agency share or match data with local departments of correction, probation, juvenile detention and/or parole for the purposes of finding parents who are incarcerated and maintaining connections with their children?
- How do our automated information systems currently capture data about parental incarceration? How could we disaggregate these data to better understand the reasons for and impact of racial disparities among children whose parent or primary caregiver is incarcerated?
- How do our data collection practices protect the confidentiality of parents who are incarcerated and their children, and prevent unnecessary surveillance and stigma?
- How does our agency monitor practice with — and outcomes for — children of an incarcerated parent or primary caregiver, including compliance with mandated services such as visits?

Historical roots of the prison and child welfare systems

Child welfare agencies cannot begin to respond effectively to children whose parent or primary caregiver is incarcerated without first understanding the racist roots and impacts of today's prison system. Mass incarceration does not affect all communities equally: According to the [Bureau of Justice Statistics](#), at the current rate, 1 in 3 Black men (compared to 1 in 17 white men) can expect to spend time in prison in their lifetimes. For Black women, that number is 1 in 18 (compared to 1 in 111 for white women).

Social scientists have attributed the disparities to a history of inequities in law enforcement dating back to the 19th century. The first prison boom occurred during the 1870s, when a series of laws targeting Black people and known collectively as “Black Codes” were

RESOURCES: THE INTERSECTION OF RACIAL BIAS, INCARCERATION, AND CHILD WELFARE

- [American History, Race, and Prison](#) (Vera Institute of Justice)
- [Where Do We Go from Here? Mass Incarceration and the Struggle for Civil Rights](#) (Economic Policy Institute)
- [Manifestation of White Supremacy in the Institution of Child Welfare](#) (American Bar Association)
- [Can Racial Bias Be Corrected in the Child Welfare System?](#) (Next City)
- [13th](#) (Netflix, film)
- [The New Jim Crow: Mass Incarceration in the Age of Colorblindness](#) (Michelle Alexander, book)

passed in the South. The result was a Southern prison population that was overwhelmingly Black and that provided, through prison farms and “[convict leasing](#),” an exploitive source of free labor to bolster the region's struggling economy. A century later, beginning in the 1970s, mass incarceration was fueled by the “war on drugs” and increasingly strict sentencing laws that were racially biased and unequally enforced (for example, from 1986 until 2010, distribution of five grams of crack cocaine, a drug more widely used in the Black community, carried the same sentence as distribution of 100 times as much powdered cocaine, which was more commonly used by affluent, white Americans).^{5,6} At other points in U.S. history, the criminal and prison systems have been employed to control other groups, including immigrants.

The racial disparities in today's foster care system, like that of America's prison system, cannot be viewed in isolation from generations of racism and systemic social and economic oppression. The separation of Black children from their parents has its roots in slavery, during which Black families were regularly and

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intentionally torn apart. Mass incarceration of Black fathers has had a similar impact. Mothers left to care for their children alone are often thrust into poverty and then judged unworthy of help and incapable of raising their children by a system that continues to remove Black children at disproportionately high rates.⁷ Similarly, the high proportion of American Indian/Alaska Native children and youth in foster care must be seen as a direct descendant of decades of genocide and family separation during the boarding school era.

Today, it is important to recognize the ways in which the prison and child welfare systems continue to harm children, families, and communities.

Personal and unconscious biases and structural racism (including neighborhood surveillance) persist and must be recognized as root causes of the disproportionate incarceration and family separation experienced in many communities of color. These biases may have even greater impact when the two systems intersect, for example, in bias within the child welfare system against Black fathers who are incarcerated.

When a loved one is incarcerated, the entire family pays a high price — not only in the loss of precious time together, but also financially in lost income and the costs of bail bonds, phone calls, visiting expenses, and commissary funds. These costs disproportionately affect families already living in poverty, and they divert resources that could otherwise be used to meet children's needs at home.

Questions to consider:

- How does our agency identify and address personal and systemic biases regarding parents who are incarcerated, and affirm their value and importance to their children?

- What training does our agency provide to staff about the racist histories of the child welfare and prison systems in the United States?
- What efforts is our agency making to examine data to identify and address disparities at multiple levels and decision points along the child protection continuum?
- How does our agency pursue racial healing and reconciliation with communities that are disproportionately impacted by incarceration and child removal, and work to engage families within those communities in a way that is respectful?

Importance of relationships

A [bill of rights for children of incarcerated parents](#) affirms the rights of children to remain connected with their parents whenever and however it is safe for them to do so. The best interests of children will vary; however, in most cases contact between parents and their children is beneficial, safe, and appropriate. In the rare cases in which parent-child contact must be limited or avoided due to the nature of a parent's crime, agencies have a responsibility to address the child's trauma and provide services to help process the loss of this important relationship. Children should be supported in maintaining relationships with other members of the incarcerated parent's family if possible (and should be reassessed over time). Child protection agencies also should consider and weigh the harm of initial and continued separation.

The vast majority of parents who are incarcerated are in jail or prison for issues unrelated to child maltreatment. It is estimated that only 3% of children with incarcerated parents in the child welfare system

The U.S. prison system and child protection system are both set up to treat families punitively. They go hand in hand and work exactly as intended. We see certain populations overrepresented in both systems because there is historical intent.

— DEE BONNICK,

MSW, PARENT, NATIONAL FAMILY ENGAGEMENT CONSULTANT, EDUCATION ADVOCATE, AND SOCIAL JUSTICE PRACTITIONER, CONNECTICUT

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are there because their parent's incarceration is directly related to an accusation of child abuse or neglect.⁸ Crime and incarceration, like child protective services, disproportionately affect those who are poor and lack access to high quality legal representation. Poverty and lack of economic opportunity can be drivers for criminal activity and incarceration, particularly in communities that historically have been underserved. In addition, strict and inflexible sentencing and bail guidelines can result in incarceration for issues that pose no danger to the children, including minor drug charges, property crimes, parole violations, or even the inability to make bail while awaiting trial.⁹

Youth who are old enough should have a voice in when and how they want to connect with a parent or primary caregiver who is incarcerated. However, agency staff should be mindful that stigma, shame, and the opinions of others (including kin and foster families) can influence these decisions. **Living in foster care while having a parent or primary caregiver who is incarcerated can be a doubly isolating experience for youth.** Child protection agencies should make efforts to connect those youth to [programs that serve children with incarcerated parents](#). Youth's choices regarding

connection with their parents should be flexible and permitted to evolve over time.

The barriers are formidable to maintaining visits between children and an incarcerated parent or primary caregiver. The incarceration may be at a facility that is far away and inaccessible by public transportation, has inconvenient visiting hours that may be changed or canceled without notice, and has visiting spaces and procedures that can be confusing and frightening for young people. Child protection agencies should support kin and foster families in overcoming these barriers to promote and facilitate children's connection to the parents or primary caregiver with information and concrete resources when necessary.

Questions to consider:

- How does our child protection agency express and affirm incarcerated parents' inherent value to their children?
- What resources and information are given to caseworkers, foster parents, and kinship caregivers to help them understand and navigate the criminal

I came from a broken home. I was raised on the streets. But I never got therapy; no one addressed the trauma and mental health issues I wound up having. I also had full custody of my daughter, who needed extraordinary care, and I felt like I had to stay home and take care of her.

I was trying to do the right thing, be a good citizen, and provide for my daughter. But even though I had full custody, I had to wait almost six months for the courts to stop child support from being taken out of my paycheck. That hurt me and ultimately got me back on the path toward criminal behavior. No one asked how I was doing, what I needed. Nobody looked beyond the tip of the iceberg. If support had been wrapped around us, I would have made different choices.”

— EDDIE TORRES,
FATHER AND ADVOCATE

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justice system for the children and families they are supporting?

- What are our agency's policies regarding children's right to spend time with a parent or primary caregiver who is incarcerated? How is adherence to — and implementation of — these policies monitored?
- How does our agency support a range of options for connection between children and the parent or primary caregiver who is incarcerated (including in-person visits, video calls, phone calls, and letters)?
- What support does our agency offer to help youth with a parent who is incarcerated cope with feelings of isolation, stigma, or shame?
- How is our agency respecting a youth's independent decision on how and whether to connect with a parent who is incarcerated? How are we ensuring that the youth's decision is not being unduly influenced by others?

Full participation and engagement

In most states and in most cases, parental incarceration alone does not negate a child welfare agency's [responsibility to pursue reasonable efforts to reunify families](#). Agencies have a responsibility to identify and include parents who are incarcerated in case planning, including identification of kin placements. Parents' right to full and meaningful engagement in their children's case should be affirmed in agency policy.

Working with and supporting parents who are incarcerated require special consideration of a range of challenges:

- **Family time** can be difficult to coordinate.
- It can be difficult (but not impossible) for parents who are incarcerated to **participate in their children's education** (such as parent/teacher conferences and helping with homework) **and medical care**.
- Some creativity and coordination may be required to provide parents who are incarcerated with **access to services** necessary to fulfill the requirements of a reunification plan. In some institutions, services are prioritized to those who are nearer to their release dates, which may conflict with child welfare timelines.
- Sometimes, the child welfare system becomes involved simply because a parent who is incarcerated lacks access to family law resources to support safe planning for the child's care. [Preventive legal advocacy](#) for parents who are incarcerated (and incarcerated women who are pregnant) may eliminate the need for system involvement altogether.¹⁰
- Many formerly incarcerated people and their families need extra support to navigate **re-entry to the community and reunification of the family** upon release from.

Each institution has its own policies and procedures regarding these issues. To improve outcomes for children and families affected by incarceration, collaboration between the child welfare system and the corrections system, including probation and parole, will be needed.

'Incarcerated' shouldn't mean 'gone.' Even if a child cannot live with their parent, knowing they are cared about on some level is better than having no level of acceptance. Children should be involved with their parents. Yes, it might be difficult or cost money. You should do it anyway

— AMANDA CRUCE,

ADOPTIVE AND RESOURCE PARENT, CONSULTANT FOR THE CENTER FOR STATES, FLORIDA

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Questions to consider:

- How are parents who are incarcerated allowed to participate in their child's case, and how is that engagement affirmed in our agency's policy?
- Does our agency have staff who are expert in — and responsible for — coordinating with the criminal justice system (jails, prisons, probation, parole, criminal courts)?
- What efforts does our agency make to include and engage parents who are incarcerated in hearings and services regarding their children? How do we ensure they stay involved in their child's education and medical care?
- How does our agency ensure that parents who are incarcerated have access to the services necessary to fulfill the requirements in their reunification plan?
- What preventive legal advocacy services are available in our community that could help families of parents who are incarcerated avoid child welfare system involvement?
- What support is available from our agency and within the community to support formerly incarcerated parents and their families as they return to the community?

To learn more, visit [Questions from the field](#) at [Casey.org](#).

- 1 This brief is informed by interviews with D'Adre Cunningham, Project Resource Attorney, Washington Incarcerated Parents Project, on January 27, 2022; Ryan Shanahan, Vera Institute of Justice, on January 13, 2022; Tanya Krupat, Vice President, Policy & Advocacy, and Allison Hollihan, Senior Policy Manager, Osborne Association, on February 15, 2022; Ann Adalist-Estrin, Director, National Resource Center on Children and Families of the Incarcerated, Rutgers University, on February 15, 2022; and Eddie Torres, Father and Advocate, on June 17, 2022.
- 2 Content of this brief was developed with members of the Knowledge Management Lived Experience Advisory Team during meetings in 2022 on February 17, March 29, and June 24. This team includes youth, parents, kinship caregivers, and foster parents with lived experience in the child welfare system, and who serve as strategic partners with Family Voices United, a collaboration between FosterClub, Generations United, the Children's Trust Fund Alliance, and Casey Family Programs. Team members who contributed to this brief include Dee Bonnick, Robert Brown, Jessica Cardenas, Amanda Cruce, and Aliyah Zeien.
- 3 Hollihan, A., & Krupat, T. (2016). See us, support us: Identifying and supporting children of incarcerated parents in child welfare. New York: New York Initiative for Children of Incarcerated Parents, The Osborne Association. https://www.osborneny.org/assets/files/NYCIP_Supporting_CIPs_in_Child_Welfare_2016.pdf
- 4 The following are sources contain more detailed information about effective child welfare practice with children of incarcerated parents and their families: The Osborne Association and New York Initiative for Children of Incarcerated Parents. (2016). *See Us, Support Us: Identifying and Supporting Children of Incarcerated Parents in Child Welfare*. Child Welfare Information Gateway. (2021). *Child Welfare Practice with Families Affected by Parental Incarceration*. Rise Magazine, Issue no. 10. (2008).
- 5 Cox, Robynn. (2015). *Where do we go from here? Mass incarceration and the struggle for civil rights*. Retrieved from: <https://www.epi.org/publication/where-do-we-go-from-here-mass-incarceration-and-the-struggle-for-civil-rights>
- 6 American Civil Liberties Union. (2006). Cracks in the system: 20 years of the unjust federal crack cocaine law. Retrieved from: <https://www.aclu.org/other/cracks-system-20-years-unjust-federal-crack-cocaine-law>
- 7 Similarly, the high proportion of American Indian/Alaska Native children and youth in foster care must be seen as a direct descendant of decades of genocide and family separation during the boarding school era.
- 8 Berger, L.M.et.al. (2016). Families at the Intersection of the Criminal Justice and Child Protective Services Systems. In Tough On Crime Tough On Families. *Annals of the American Academy of Political and Social Science*,665(1), May 2016
- 9 Interview with D'Adre Cunningham on January 27, 2022.
- 10 Interview with D'Adre Cunningham on January 27, 2022.

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