A Call to Action: Safeguarding New York’s Children of Incarcerated Parents

Executive Summary

May 2011
When people think of men and women who are arrested or incarcerated, they rarely consider them as parents (although most of them are.) So it should come as no surprise that the policies and practices that have grown up around the criminal justice system have not focused on their impact on children. Yet over the last three decades, as the prison population was growing, so was the number of people and organizations concerned about the effect of incarceration on children. As New York’s crime rates and prison population have fallen, there has emerged an opportunity for the impact of parental incarceration to move from a collateral consequence to a central concern of criminal justice policy.

Six years ago, the release of the Children of Incarcerated Parents’ Bill of Rights in San Francisco provided an unprecedented roadmap for reform of the criminal justice system from a child’s perspective, asserting (among other things) that children have the right to a lifelong relationship with their parents—regardless of justice system involvement. That same year, the Osborne Association launched the New York Initiative for Children of Incarcerated Parents (New York Initiative) using the Bill of Rights as a framework for building partnerships and advocating for policies and practices that would meet the needs and respect the rights of these children. In 2009, the Governor’s Children’s Cabinet (GCC) created its Subcommittee on Children of Incarcerated Parents bringing state agencies together for the first time to examine and address the needs of this population of New York’s children.

On November 15, 2010, the New York Initiative convened a strategic planning process and Summit to focus on children whose parents are in the criminal justice system and develop recommendations for how the systems that touch their lives can minimize trauma and harm, and support their resiliency and success. The Summit brought together more than 240 people representing 100 different government agencies and community-based organizations, including individuals directly affected by parental incarceration.
A Call to Action: Safeguarding New York’s Children of Incarcerated Parents highlights what all of us—public and private agencies, policymakers, families, and concerned citizens—can do to improve the lives and outcomes of New York’s children of incarcerated parents. Achieving this goal encompasses more than just government efforts; it calls for recognition that children love their parents, even when incarcerated, and can benefit from the love and support of that parent. And it requires a shift in public perceptions, and an involved and informed community.

The commitment of those in leadership positions – whether in government, the community, or individual families – to safeguard this group of children is critical. While this commitment must consider fiscal constraints and structural challenges, the very purpose of efforts to make government more efficient and effective is to meet the core needs of our citizens, especially the most vulnerable among us. Meeting the needs and respecting the rights of children of incarcerated parents require collaboration, a willingness to think and act in new ways, and remembering what it is to be a child.

A Call to Action: Safeguarding New York’s Children of Incarcerated Parents contains 87 recommendations that provide a framework for pursuing the five major goals of the Initiative. These comprehensive goals guided the work during the November Summit and continue to guide our commitment to these children’s fundamental rights:

**Goal 1:** Criminal justice/law enforcement agencies consider children and their developmental and attachment needs at all points along the continuum of their parent’s involvement in the criminal justice system, from arrest through incarceration and through reentry.

**Goal 2:** Children’s services and social service agencies are aware of and fluent in addressing the impact on children of a parent’s criminal justice involvement.

**Goal 3:** Cross-systems coordination facilitates the maintenance of relationships among parents, children, and caregivers that are in children’s best interests. Parents participate in decision-making that relates to their children whenever possible.

**Goal 4:** Private agencies and public systems incorporate into their work data collection, research, and evaluation about the needs and experiences of children of incarcerated parents.

**Goal 5:** A representative, inter-disciplinary oversight body is responsible for ensuring progress in achieving these goals. It includes relevant government and community representatives.
Each of the recommendations contained in the full report is important; each one would improve the lives of New York children whose parents are involved in the criminal justice system. They are intended to assist policymakers, legislators, and leaders to see the hundreds of thousands of children who are often invisible, to better understand their needs, and to act to make a positive difference in their lives. To this end, the following Top Ten Recommendations are intended as an entry point to the comprehensive recommendations contained in the full report.

**TOP TEN RECOMMENDATIONS**

1. **ARREST:** To reduce trauma for children, all agencies authorized to make arrests (including police, probation, corrections, parole and immigration) should adopt and implement child-sensitive arrest protocols designed to minimize child trauma and out-of-home placements for children, including (whenever safely possible): not handcuffing the parent in front of the child, looking for signs of children who may not be present, providing parents with an additional phone call to arrange for childcare, providing information to arrested parents and caregivers with whom the child may be left, and providing clear guidance and interagency protocols for when there is no available caregiver for the children.

2. **SENTENCING:** Sentencing laws should consider the impact on the defendant’s children of various sentencing options, with the goal of minimizing harm to children. The New York State Office of Probation and Correctional Alternatives and local probation departments should include a Family Impact Statement as part of the pre-sentence investigation and report to the sentencing court, including information regarding whether the parent is the primary caregiver, the extent of involvement in the child’s life and home, level of financial and emotional support provided, involvement with Family Court, predicted short and long-term impact on the child of parent’s incarceration. Staff training should be provided regarding the implementation of Family Impact Statements.

3. **THE COURTS:** To assist judges in criminal courts to make informed sentencing choices, and to assist Family Court judges to determine the best interest of children with incarcerated parents when considering parental rights, visitation, custody, and related matters, the Office of Court Administration (OCA) should sponsor or encourage legal and judicial training institutes, court-based lunchtime discussion sessions and workshops that incorporate information about child development, including research on brain development, attachment, and trauma, and the importance of maintaining contact between a parent and child. OCA should also address and develop mechanisms for coordination between criminal and Family Court for parents involved in both court systems.
4. **INCARCERATION**: The Department of Corrections and Community Supervision (DOCCS) should consider proximity to children among the key criteria (along with security and mental health needs) when determining prison assignments and transfers of parents. Implementation could begin with a pilot that focuses on parents who were primary caretakers of their children prior to incarceration, or parents with open child welfare cases. DOCCS should preserve and expand child-friendly visiting policies, practices and programs, including Family Reunion Program, free buses, and parenting programs, and support increased access of children to their incarcerated parents through the use of technology (including expanding tele-visiting and piloting a secure e-letter system such as exists within Federal prisons). In considering budget reductions, the state should include families in program and reentry planning, and protect and maintain policies and programs that are child- and family-sensitive.

5. **COMMUNITY SUPERVISION**: Probation and parole agencies should develop clear and practical protocols for parents and caregivers responsible for children while under community supervision. Such protocols would address what to do when parenting obligations conflict with supervision requirements, whether it is allowable to report with children present, and how parents under correctional supervision should handle child-related emergencies that may jeopardize their probation or parole compliance. Departments should provide staff training on these protocols and devise mechanisms for monitoring their implementation.

6. **DATA COLLECTION**: The lack of data about children of incarcerated parents hinders service delivery, interagency coordination, funding allocation, policy reform and development, and knowledge about effective interventions and current outcomes. Questions about parental and family incarceration should be added to intake forms of agencies and organizations that serve children and families in order to identify children for appropriate service referrals as well as utilize aggregate data to inform the above. Questions should be framed non-judgmentally and be protected as confidential; confidentiality is of the utmost importance since significant stigma and discrimination can result from this information being shared.

7. **CAREGIVER SUPPORT**: Although most children of incarcerated parents live with their other parent, many children are cared for by other members of the family. To aid them, implement subsidized guardianship in New York State for caregivers outside of the child welfare system. The recent enactment of the Kinship Guardianship Assistance Program (KinGAP) provides financial assistance to kinship foster parents wanting to assume guardianship of children outside of the foster care system; there is currently no such equivalent financial support for kinship caregivers who want to assume guardianship before or to prevent children from entering foster care. The existing child-only grants are often insufficient to adequately provide for the child’s needs and are not on par with the adoption subsidy or KinGAP subsidy. Community-based kinship programs provide critical assistance to relative caregivers navigating and accessing social services, legal, medical/health and educational systems and should be preserved.
8. **TRAINING**: Because children affected by parental incarceration are served through a variety of agencies and individuals outside of the criminal justice system (e.g. educational, mental health, and child welfare systems), appropriate agencies should develop and implement training for teachers and educational professionals (including Head Start, Early Intervention Programs, and other early childhood programs), after school providers, youth service providers, mental health and health care providers, and child welfare staff, especially those who are in a position to make or influence decisions about contact, placement, visiting, and custody.

9. **AGENCY COORDINATION**: Appoint and train interagency liaisons within corrections (DOCCS), education (SED), social services (OTDA) and juvenile justice (OCFS), as well as their local counterparts in corrections, education, child welfare, and juvenile justice, to promote and facilitate interagency coordination.

10. **COORDINATION, IMPLEMENTATION AND ACCOUNTABILITY**: Because families affected by incarceration are often involved with multiple governmental agencies at the state and local levels, and because few recommendations can be implemented by a single agency or service provider, a statewide coordinating council on children of incarcerated parents should be established and housed within the Council on Children and Families (CCF), to continue and build on the work of the Governor Children’s Cabinet Subcommittee on Children of Incarcerated Parents (an entity that has not continued into the administration of the current Governor). CCF would chair the Children of Incarcerated Parents Coordinating Council with vice chairs from the New York State Division of Criminal Justice Services (DCJS) and the New York Initiative for Children of Incarcerated Parents.
CONCLUSION

A Call to Action: Safeguarding New York’s Children of Incarcerated Parents coincides with a heightened interest in this issue locally, nationally, and internationally. Reports on the topic have recently been issued by the Council of State Governments and the European Network for Children of Imprisoned Parents. These and other efforts around the country rely on similar research and reach similar conclusions. The difference is that New York has a longer history of collaboration and more experienced service providers on which to draw in implementing the reforms and recommendations that emerged from the Summit. In other words, New York is well positioned to move from recommendations to reality, and to achieve the goals set forth by the Summit participants.

These recommendations come at a time of crisis and opportunity. While the current fiscal climate does not favor costly reforms, it does support increased efficiencies that come from cross-system collaboration.

For that reason, most of the recommendations contained in the Report rely more on partnerships, consensus, and political will than on new funding or legislation. In fact, several recommendations that emerged from the strategy planning for the Summit are already being implemented.

Not all of the challenges facing children of incarcerated parents can be resolved within current laws or within current resources; some needed reforms may take several years before they can be achieved. But setting the right course now with a specific plan of action is critical; this report does just this, crossing boundaries between and among agencies and approaches. We now have a true Call to Action.

The full report, including a complete listing of the partners comprising the New York Initiative on Children of Incarcerated Parents and the Steering Committee of the Summit is available at www.osborneny.org.

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