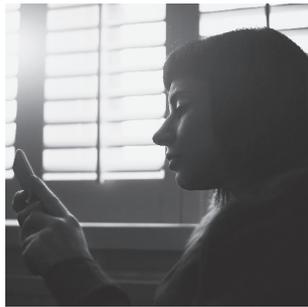


THE GOLDEN THREAD

Putting family at the heart
of the criminal justice system

March 2022



The Golden Thread: Putting family at the heart of the criminal justice system
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About the Centre for Social Justice

Established in 2004, the Centre for Social Justice (CSJ) is an independent think tank that studies the root causes of Britain's social problems and addresses them by recommending practical, workable policy interventions. The CSJ's vision is to give people in the UK who are experiencing the worst disadvantage and injustice every possible opportunity to reach their full potential.

Since its inception, the CSJ has changed the landscape of our political discourse by putting social justice at the heart of British politics. This has led to a transformation in Government thinking and policy. The majority of the CSJ's work is organised around five 'pathways to poverty', first identified in our ground-breaking 2007 report, *Breakthrough Britain*. These are: family breakdown; educational failure; worklessness; addiction to drugs and alcohol; and severe personal debt.

Recognising that the poorest and most vulnerable are disproportionately more likely to find themselves in touch with our criminal justice system, the CSJ created a new policy unit for Criminal Justice in 2017. Indeed, when we consider the social characteristics of those passing through our criminal justice system against those of the general population, the levels of disadvantage and trauma are stark. It is also the case that our most vulnerable members of society are often most susceptible to the impact of crime.

The CSJ delivers empirical, practical, fully funded policy solutions to address the scale of the social justice problems facing the UK. Our research is informed by expert working groups comprising prominent academics, practitioners and policy-makers. Furthermore, the CSJ Alliance is a unique group of charities, social enterprises and other grassroots organisations that have a proven track record of reversing social breakdown across the UK.

The 18 years since the CSJ was founded has brought with it much success. But the social justice challenges facing Britain remain as pressing as ever. In 2022 and beyond, we will continue to advance the cause of social justice in this nation.



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Numerous organisations and individuals have fed into this report. They have offered welcome encouragement and challenge, their expert advice and time. We are enormously grateful for their support and contribution.

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Above all, we are grateful to the men, women, and children who gave their time to talk to us about their experience of the criminal justice system. Their stories form the backbone of this report and we owe them our gratitude and thanks.

Please note that recommendations or statements of opinion made in this report should not be construed as representative of all those named in all instances.

Foreword

As Covid forced us away from our loved ones, family has once again been shown to be the most important thing in many of our lives. As we were asked to stay in our homes and refrain from seeing our relatives, we learnt to no longer take for granted visits from our children, siblings, parents and grandparents. The threat of the virus itself, and the prolonged periods of separation each of us faced as a result, brought the importance of family contact into sharp focus.

Yet, families with a relative in custody endure the challenge of separation from their loved ones day-in and day-out. The daily experience of many families of prisoners is defined by a longing for the next point of connection, whether it be through a phone call or a face-to-face visit. But the sad reality is that when we sentence people to custody in the prison estate, there is a 45 per cent chance that they will lose contact with their relative while they are inside. The impact of this can be devastating for families and prisoners alike.

If we do not put mechanisms in place to support families to maintain contact with their loved ones there will be significant ramifications for wider society too. Indeed, there is an established body of evidence that family contact is a crucial component of rehabilitation. It is for this reason that as Prisons Minister, I commissioned Lord Farmer to conduct a review into the importance of strengthening prisoners' family ties to prevent reoffending and reduce intergenerational crime.

The Farmer Review was instrumental in galvanising tangible and cultural change across the prison estate, and the Government should be applauded for the steps it has taken to see the recommendations from that review implemented. It must not stop here, however, and this report once again emphasises the need for the Government to do more to enable family ties to be maintained across the entire prison estate.

However, there is a missing voice in this story. The families of prisoners have a distinct but equally important set of needs which must be recognised but are all too often forgotten. From arrest through to release, families face one hurdle after another as they navigate what is often a bureaucratic and outdated system. Along the way, they can face a myriad of social, economic and psychological harms, which often leaves them traumatised and isolated from their communities.

The lack of recognition and support afforded to families is perfectly encapsulated in the approach taken to children affected by imprisonment: there is currently no accurate, reliable or publicly available data on the number of children affected by parental imprisonment, nor is there a statutory mechanism to identify these children and thereby refer them to support. This is despite the significant harms they may face as a result of

their parent's imprisonment. When we separate children from their parents, we must take responsibility for ensuring they are safeguarded and protected. In 2022, we should not be turning a blind eye to any child in need of support.

This report shines a light on a community of innocent men, women and children who find themselves thrust, through no will or fault of their own, into the criminal justice system. Their support for their relatives in custody is vitally important to prisoners and our wider communities, as evidenced by the work of Lord Farmer. However, they must be supported too. If we truly believe in the importance of family in the criminal justice system, families must no longer be pushed aside simply as an obstacle to be overcome. The families of prisoners deserve our commitment. Policies that truly address the needs of these families and children must be implemented to stimulate the necessary cultural change throughout the system. It is time to match our words with action. It is time to put families at the heart of the criminal justice system once and for all.

Andrew Selous MP

Minister for Prisons, Probation and Rehabilitation, July 2014 – July 2016

Executive summary

Family matters

The importance of family to our criminal justice system cannot be understated. And yet it all too often remains an afterthought.

While multiple governments have committed to harnessing the power of family to change lives in the system, we have heard repeatedly through the course of this research – from prison staff, police officers, frontline charities, and the families and children themselves – that these sound intentions have rarely translated into meaningful change on the ground. This is despite the fact that the odds of reoffending are 39 per cent lower for a prisoner who receives visits from a partner or family member than for a prisoner who does not.¹

A reduction of only 10 per cent in reoffending would not only lead to thousands fewer victims of crime, but an estimated economic benefit of £1.8 billion.² The failure to fully unlock the potential of family across the criminal justice system is a longstanding missed opportunity.

Most significantly, it is a betrayal of the families and children who find themselves, through no fault of their own, in contact with the criminal justice system. As we have heard first-hand, families of prisoners regularly find themselves treated as ‘guilty by association’ and lacking the support they need to confront the challenges associated with their relative’s imprisonment.

The Farmer Review five years on

The seminal Farmer Reviews (2017; 2019) attempted to correct this historic wrong. Lord Farmer argued that, given the high rate of reoffending (nationally 25 per cent)³ and its eye-watering associated costs (estimated at £18 billion per year),⁴ the needs of families should be prioritised in prison reform as ‘the golden thread’ running through the processes of all prisons.⁵ In particular, he called for the leadership, investment, and cultural change required to ensure that prisoners can maintain and develop family ties, as the evidence shows that relationships are fundamental to rehabilitation.

1 May C., Sharma N. and Stewart D., Factors linked to reoffending: a one-year follow-up of prisoners who took part in the Resettlement Surveys 2001, 2003 and 2004. London: Ministry of Justice, 2008.

2 Ministry of Justice, Economic and social costs of reoffending: Analytical report. 2019. Page 10

3 Ministry of Justice, Proven reoffending statistics quarterly bulletin, January to March, 27 January 2022.

4 Ministry of Justice, Economic and social costs of reoffending: Analytical report. 2019. Page 10

5 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners’ Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 9

We welcome the significant steps the Government has already taken to see the recommendations of the two Farmer Reviews implemented across the male and female estates. For example, since 2018, prison governors have been required to produce local strategies which outline their family offer and their plans to support family engagement.⁶

However, five years on from the first publication, it is clear that urgent progress is needed before the impact of Farmer's recommendations are felt in every prison landing, cell and visitor's centre. Despite the depth and breadth of the transformation promised, we have been struck by evidence suggesting a highly inconsistent recognition of the importance of family across the criminal justice system. Without significant cultural change needed across the system, Farmer's vision for the transformation of the prison estate will not be realised, and families and communities will continue to suffer the consequences.

The challenge: families remain unsupported

Our research has found that, where steps have been taken in light of the Farmer Reviews, change has focused overwhelmingly on the needs of the prisoner rather than the family. The consequence of this is that families are looked upon to bear the responsibility of supporting their relatives through the criminal justice system, with little to no support afforded to them in the process. This experience can be life changing. In the 67 interviews carried out as part of this inquiry, we have heard in unvarnished detail the emotional, psychological, and economic distress this can cause. From arrest and through to release, families have to battle a system that often treats them as guilty by association – a far cry from the golden thread that families were heralded as in Farmer's review.⁷

Arrest signals the start of a period of significant emotional upheaval for families. Innocent bystanders who witness the arrest of a family member at home are often left traumatised. Through the court process, families of defendants often sit alone, alienated by the legalese and traditions of the court. Many will be distraught at the prospect of being separated from their relative at the point of sentence. In prison, families often have to battle a bureaucratic system which treats them with suspicion at best, and contempt at worst. While at the point of release, families struggle to shoulder the burden of supporting those who face the uphill challenge of reintegrating back into society.

The children of prisoners are often an additional victim of crime, forgotten by the system. An estimated 312,000 children are separated from their parents by imprisonment each year,⁸ and unlike the family courts, where the interests of the child are paramount, there is an absence of provision in the criminal courts when a child is separated from their parents.⁹ Each of these children will be at increased risk of suffering psychological, economic and social harms as a result of their parent's imprisonment.¹⁰ Furthermore, of the estimated

6 NICCO, Updates on the implementation of recommendations resulting from the Farmer Review, 2018.

7 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 4

8 Crest Advisory, Children of Prisoners: Fixing a broken system. February 2019. Page 6

9 S Minson, Maternal Sentencing and the Rights of the Child, 2020

10 Daniel P Mears, Sonja E Siennick, Young Adult Outcomes and the Life-Course Penalties of Parental Incarceration, 2015. Page 1

17,000 children separated from their mother through imprisonment each year,¹¹ the vast majority will have to move out of their family home. Only nine per cent will be cared for by their fathers while their mother is in prison.¹²

In spite of these numbers, and the significant impact that separation from a parent will have on these children, there currently exists no statutory mechanism for identifying children affected by imprisonment. There is also no nationally recorded or published data on the number of individuals who pass through the criminal justice system with dependent children.¹³ This state of affairs is, in our view, a national scandal.

The way forward: putting family at the heart of the criminal justice system

Our research has revealed that there exists a community of men, women and children who are forgotten, unsupported, and alone. Having already suffered the consequences of the crimes committed by their relative, they are often then thrown aside in a system which fails to recognise their needs. This report is about them and what more the Government can and must do to support these families as they journey through the criminal justice system.

As we have found, the Government has made clear progress on the implementation of Lord Farmer's recommendations, but it must scale up its ambitions to deliver for the families of people in prison – to the benefit of everyone in society. In this report, we advance a range of recommendations to help put family at the heart of the criminal justice system:

- **Tackling the trauma of arrest on families**, through trauma-informed practices and training, as well as signposting and support
- **Recognising the impact of sentencing on families**, with measures to safeguard and provide support for dependents affected by imprisonment, as well as kinship carers
- **Maintaining connection through custody** by ensuring there is a culture of respect towards children and families in prisons, enabling high-quality interactions with their relative in custody
- **Preparing families for life after prison**, through involving families, where appropriate, in release planning, ensuring they are adequately supported and safeguarded to play a key role in rehabilitation

11 Crest Advisory, *Children of Prisoners: Fixing a broken system*, February 2019. Page 20

12 Home Office, *The Corston Report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the criminal justice system*, 2007. Page 20

13 S Minson, *Maternal Sentencing and the Rights of the Child*, 2020

Summary of recommendations

Tackling the trauma of arrest

- Enquiries about the presence of children or other vulnerable adults must take place when a search and/or arrest happens in the family home, with or without a warrant. Where this is not possible before the event, an officer present should still account for and record details of any children or vulnerable adults present at the search following the arrest. This is so that where appropriate, and if they consent, families can be referred for support.
- Every police force in England and Wales must have a mechanism of identification and referral for families and children affected by arrest and imprisonment. A referral should be made to the Multi-Agency Safeguarding Hub, and if appropriate and where possible, a voluntary sector organisation or a family hub in the community.
- Specific training for the police into the impact of arrest and imprisonment on children and families must be provided by the College of Policing. The training should seek to mitigate the distress caused to the child during the arrest through child-centred and trauma-informed practices. This training should be incorporated into the refresher training and online learning undertaken by police forces.

Recognising the impact of sentencing on family

- The Government should introduce a statutory duty to be placed upon the courts to consider the best interests of the child and other dependents or the impact that the sentence would have upon them. This would be in line with existing sentencing guidelines and case law in this area.
- Children with a primary carer in prison should be identified as children in need under section 17 of the Children Act 1989. This should be automatic and apply across every local authority in England and Wales.
- Families who take on the care of a child whose parent is in prison should be offered a statutory kinship care allowance in line with foster care allowance. Carers should be signposted to organisations in the community that can offer holistic wrap-around support throughout the prison sentence.

Maintaining connection during custody

- Prison searches are essential to maintain security across the estate. However, prisons should ensure searches are conducted in a respectful manner in the style of airport security.
- Children and families should not be punished for the behaviour of their relative in prison. Family visits, therefore, should not be linked to the Incentives and Earned Privileges (IEP) scheme for any adult prisoner.
- Prison governors should ensure that all people in prison have equal access to family days, for example stepparents and grandparents, given how important they are for maintaining and strengthening familial relationships.

Preparing families for life after prison

- Offender management teams should begin release planning for prisoners at the earliest opportunity. If appropriate, families should be involved in this process and be able to meet with a multi-disciplinary support team.
- While recognising that the needs of the victim and community are of utmost importance, care must be taken to ensure licence conditions enable former prisoners to maintain family relationships or undertake childcare responsibilities.
- Families should be supported to come together again after imprisonment where this is the desire of the family and prison leaver and it is safe to do so. This means that women being released from prison who have no housing should be prioritised for housing with their children.

Introduction

In early 2020, the CSJ embarked upon a three-year study of our criminal justice system. Our goal was to add the voices of prisoners and their families to the evidence base on family and meaningful employment, to inform policy and practice. This is the first in a two-part series reflecting the experiences of families who come into contact with the criminal justice system and making the case for reform.

Through the course of researching and writing this piece, the CSJ conducted in depth, semi-structured interviews with 67 individuals, including 20 people with a relative in prison, ten former prisoners, and 37 children¹⁴ who have been affected by imprisonment.

We have sought to reflect the experiences of families and prisoners at each stage of the criminal justice system. Starting at the point of arrest, we have then journeyed with families through the courts, on through the prison estate, and finally into release. Each of the men, women, and children we have spoken to have been at a different point in their journey through the system.

While some common themes have emerged throughout the course of the work, which we shall explore in detail over the coming pages, each family's experience of the criminal justice system is distinct. Families of prisoners are not a homogenous group: many have positive family ties with their loved one inside, others may have a strained but supportive relationship with their relative in prison while some have been the victim of the crime their family member has been convicted of.

We would not be able to do justice to the variety of experiences and voices of families who come into contact with our criminal justice system each day in this report, and we have not sought to. We have, however, captured a snapshot of the challenges that families face. In recognition of the complexity of experiences faced by those who are also victims of the crimes their relative has committed, we do not seek to address the needs of this cohort. The CSJ considers, however, there is urgent need for further research in this area and support for this group of individuals.

Through the course of this work, we have consulted widely with stakeholders in the sector, including police and probation officers, court staff, prison governors, safeguarding officers, social workers, lawyers, academics, and voluntary sector workers. There has been overwhelming agreement that families play a critical role in the criminal justice system, yet at the same time, there has been a failure from within the system to recognise and accommodate their needs.

¹⁴ With thanks to Children Heard and Seen who facilitated and conducted the interviews with children on our behalf.

chapter one

Arrest

Introduction

For families affected by imprisonment, the turmoil often begins long before their relative receives their sentence at court and enters the prison estate. It begins months, if not years before, at the first point of arrest. Almost all the families we interviewed could recount the moment the police knocked at their door, and the moments that followed, with vivid detail.

When the police enter a home to make an arrest or search the premises, they are not seeking to cause harm, indeed the very opposite; they might be investigating a crime or trying to prevent further offending. Where criminal activity is taking place in the home, this will likely be having an adverse impact on family members and children. The work of the police is therefore vital for the safety of the families we are concerned with, as well as the wider community.

However, the process of entering a home to make an arrest, or to conduct a search, is inherently invasive, and in a great number of cases it will not just be the suspect who lives there, but also their family. For those present, witnessing a house arrest can be distressing and frightening, the effects of which can stay with individuals, and particularly children, for years to come.

Key findings

From our own research and past studies in this area,¹⁵ it is clear that one family's experience of an arrest in the home might look very different to another's.

One family member we interviewed reflected:

They were caring. They were gentle. They clearly didn't suspect me of anything.

¹⁵ Children of Prisoners Europe, COPING: Children of Prisoners, Interventions and Mitigations to Strengthen Mental Health, 2013. Page 353

While another said:

There was no need to barge in the way they did. They were just all too heavy handed. It was absolutely horrific. I just cried. I couldn't stop crying.

Despite this variation of experience,¹⁶ through the course of our research, the following common themes emerged in relation to families' experiences of arrest, including:

- arrest has the potential to traumatise family members
- arrest can have a particularly negative impact on children
- families' experiences of arrest can lead to mistrust in the criminal justice system

We consider that in their efforts to protect communities from criminal behaviour, police officers can fail to recognise the opportunity and the responsibility they have to mitigate the trauma experienced by families and children with whom they come into contact. When approached sensitively and in a trauma-informed way, there are opportunities for officers to identify welfare issues and to intervene in what are otherwise very bleak circumstances.

Arrest has the potential to traumatise family members

During our interviews, families often remembered the arrest as a highly traumatic moment in their journey through the criminal justice system. When asked about the arrest, one family member replied:

The arrest? That was the most traumatic bit.

The arrest will often signal the start of a period of significant emotional upheaval for the whole family. Many family members have no prior knowledge of their relative's offence, and the moment that the police knock at the door is fraught with shock, confusion, and fear.

Code B of the Police and Criminal Evidence Act 1984 states that searches must be made at a reasonable hour unless this might frustrate the purposes of the search.¹⁷ However, arrests frequently take place at night or in the early hours of the morning, often when other members of the family are present, as it is common practice for police officers to look for times of the day where they can be sure the suspect is in the house.

One interviewee described being awoken at 4am on the night that her son was arrested:

It was four o'clock in the morning and there was a bang on the door. It was only myself and the kids here and the dog was going crazy. I got up and answered the door and there were six policemen stood there.

¹⁶ This variation of experience may be influenced by a number of different factors, most notably the crime committed by the alleged perpetrator and the threat they pose to the community.

¹⁷ Police and Criminal Evidence Act, Code B, Page 11. (Paragraph 6.2)

While another described the moment the police came to arrest her son:

They just ran past me and ran up the stairs and dragged him out of bed... it was horrible.

Weeks, months, and even years later, families continue to relive the events of the night that the arrest took place:

I relive the whole nightmare on a daily basis. I relive the arrest, the police being here, watching him leave, just the whole thing... I'm anxious, I don't sleep because most days I'm awake at four o'clock. You know, it's like your brain is telling you, you've got to be awake at four o'clock because something's going to happen again... I get no respite from it.

Families can experience discrimination as a result of the arrest

This trauma can be compounded by the discrimination that families often perceive or experience as a result of their relative's arrest. Indeed, families described being treated as guilty by association, or even complicit in the alleged offence by both the police and the wider community. This was the case even when they did not know what their relative was being arrested for.

One family member described how the police made her feel during the arrest:

The whole family unit are treated like criminals. And I think it's appalling. The way the whole thing was dealt with... I totally get why, in some circumstances, police officers would act the way they did with violent offenders or repeat offenders that are known to them and could possibly cause issues or harm... but for somebody who had never been in this system before, and to be treated like that, it was a huge shock to all of us.

While another said:

I was told by one of the police that came to the house that he's going to prison tomorrow morning. "Don't expect him to come over. He's not coming home for what he's done." Then he sort of laughed and said, "Oh, you must have known what he was doing." And I said, "No, this is a shock to me." And I could just tell by the tone of the voice, he didn't really believe me.

Families also described feeling a sense of shame at having the police knock at their door, often early in the morning when neighbours are still at home and able to witness the police presence on the street:

...the police were here and the neighbours have been a bit nosy and, you know, I've seen them sort of looking out the window... that's definitely been a factor in my emotions, the guilt and shame.

A number of families we spoke to relayed stories of social isolation following the arrest. Some spoke of the abuse and harassment they had received within their local community, a theme we will return to in chapter two of this paper.

The pain of separation

The arrest will be, for many families, the last time they are able to touch or even see their relative for some time. Some individuals will be remanded in custody awaiting sentence and therefore will not be allowed to return to the family home. During the Covid-19 lockdown, this was particularly pronounced because of the restrictions on visits across the prison estate:

As the police were taking him out of here, he said, "Can I give her a kiss and cuddle?" and he kissed me on the cheek, and he gave me a cuddle. I was crying. That's the last time I touched him.

It is worth noting that some families, especially those who were victims themselves, may welcome their relative's arrest as they feel that justice needs to be done. Others who worry consistently about the welfare of their family member and the criminal behaviour they are involved with may also be relieved that the burden of care has finally been taken off their shoulders.

However, for a great number of individuals, the pain of separation from a close family member is the most challenging part of their journey through the criminal justice system. This experience is often especially difficult for children, many of whom will be separated from their parents at the point of arrest.

Arrest can have a significant negative impact on children

Children, when present, are often most vulnerable to trauma following the arrest of a family member. This was born out in our interviews.

Rebecca¹⁸ was able to describe the moment her father was arrested in the family home, in front of her and her siblings, some years after it took place:¹⁹

One time they came in. There was shouting and screaming, and they pepper sprayed my dad in the flat we were living in. They pepper sprayed him in the hallway. Then he went to the bathroom to try and wipe his eyes. And they pepper sprayed him in the bathroom. And the pepper spray went everywhere... So all of us kids had it on our hands and in our eyes. He then went into the kitchen to try and wash it some more and they pepper sprayed him again and tasered him at the same time. They then arrested him. And all of that took place in front of us kids... I must have only been 11 or 12.

It is not uncommon for children to be present to witness the arrest of their parent or another close family member, especially when the arrest takes place in the family home. It has been estimated that as many as 80,000 children experience a home raid by police each year.²⁰ While often silent witnesses, the sight or sound of a parent, sibling or other close relative being arrested can be exceptionally distressing for a child who might not always understand what is happening or why.

Grace's story

Grace is 14 years old. Her father is currently serving a four-year custodial sentence for affray and burglary. Grace's mother was out shopping when the police came to arrest her father. Subsequently, Grace witnessed the arrest alone, without parental support. She was confused as to why her father was being arrested and she found the experience extremely scary. The experience has made her dislike the police.

Grace is now receiving one-to-one support from a voluntary sector organisation, Children Heard and Seen, which has enabled her to discuss and manage the difficult feelings she has in relation to her experience of her father's arrest and imprisonment.

Several children who participated in our research reflected on the emotional impact of the arrest of a parent:

I was there when the police turned up... I was nervous.

It's pretty upsetting. It was hard to deal with at the time. It's shocking and yes, it's a hard thing to kind of get over.

It was horrible because it was just a massive shock.

18 For confidentiality reasons, all names in this report have changed.

19 It should be noted that police practices have moved on since this took place, and the Metropolitan police are no longer allowed to use CS spray alongside a taser.

20 Tilley-Riley, J. Collateral damage: The impact of witnessing a home raid by the police, on the children and the siblings of offenders in England, 2016. Page 3

We also heard from children who described how difficult it was adjusting to life after an arrest, as well as their fear that the police might return:

Are the police gonna come and take me away, like they took my daddy away?

The days, weeks, months, and even years following an arrest can be beset with uncertainty. For some children, their relative will return to the family home while investigations continue, yet the focus on the ongoing investigation and potential upcoming hearings can be all-consuming for families.

For other children, their relative will be remanded in custody awaiting sentence, or required to leave the family home while investigations continue. In the most serious offences, the parent may never return to the family home again. For these children, the abrupt departure of a family member can have significant consequences not only for their emotional wellbeing, but also their sense of stability and security. Indeed, research into the impact of maternal imprisonment highlights that mothers and children can suffer from post-traumatic stress disorder (PTSD) after an arrest as they relive the painful moment of separation.²¹ For children, the arrest of a primary carer can be a source of anger and sadness which can put a significant strain on parent-child relationships.

We will explore in greater detail the impact of imprisonment on the wider family in chapter three of this paper.

The experience of witnessing an arrest can affect families' relationships with the police and the criminal justice system

Erosion of trust

We're very jaded. We don't trust them; we just don't trust the police service anymore.

While the approach taken by the police will vary according to the nature of the offence and the threat posed, many police officers are aware of the presence of family and children when conducting arrests in the family home. Good practice requires police officers to ensure, where possible, that vulnerable adults and children are moved out of the way when an arrest takes place. One police officer noted:

Unless something goes really wrong, it would be common practice to ensure the kids are put in a separate room and make the arrest away from the kids.

Police officer, Metropolitan Police

²¹ Baldwin, L. Executive Summary, *Motherhood Challenged: Exploring the persisting impact of maternal imprisonment on maternal identity and role*, 2021.

Indeed, a former prisoner recounted her experience of arrest:

The arrest itself wasn't bad. I wasn't handcuffed or anything. They were very good because they knew that there was a child in the house.

However, our research suggests that despite pockets of good practice, too often family members can experience significant psychological and emotional harm during an arrest or search of a premises.

The arrest of their family member was the first time many of those we spoke to had come into contact with the criminal justice system. This will certainly be the case for the majority of the 80,000 children who witness an arrest in the family home each year.²² This experience can shape attitudes and relationships with the police and other criminal justice agencies for years to come. Rebecca described the lasting and potentially devastating impact that witnessing her father's arrest has had on her as a young woman:

I didn't sleep properly for a while after that. And even to this day, I'm still not... I'm not fond of police officers. Up until that time they didn't really bother me. I knew my dad didn't like them, but I just thought, whatever. But ever since then, I've not trusted the police. I wouldn't trust them as far as I could throw them. And there's been times where things have happened to me that I should have reported but I wouldn't feel safe telling them.

This erosion of trust amongst those who have experienced parental imprisonment as a child, or as an adult, can be extremely damaging for the police and their ability to work with communities, as well as for individuals who might later become future victims of crime.

Current policy and practice: Police responsibilities, duties, and training

The decision to enter a home to make an arrest or search a premises is one not taken lightly. There are safeguards in place which should ensure that the decision is necessary and to mitigate the impact of the arrest on any potential innocent bystanders.

Police powers of arrest

Police powers of investigation, including arrest, detention, entry and search of premises are largely governed by the Police and Criminal Evidence Act 1984 (PACE) and the associated Codes of Practice.

PACE Code G deals with the statutory power of the police to arrest a person who is involved, or suspected of being involved, in a criminal offence. It states that the power of arrest must be used *'fairly, responsibly, with respect for people suspected of committing*

²² Tilley-Riley, J. Collateral damage: The impact of witnessing a home raid by the police, on the children and the siblings of offenders in England, 2016. Page 3

*offences and without unlawful discrimination.*²³ It notes that police forces have a duty to 'take steps to foster good relations', in addition to their duties to eliminate unlawful discrimination, harassment and victimisation.²⁴

Powers to enter and search a premises

PACE Code B 2013 governs the search of premises and highlights everyone's right to privacy as enshrined in the Human Rights Act 1998. Any power of entry, search and seizure, whether involving a warrant or not, must be fully and clearly justified before use *'because they may significantly interfere with the occupier's privacy.'* Indeed, officers should consider if the objective can be met through less intrusive means.²⁵

Furthermore, the Code states that powers to search and seize must be used with respect for people who occupy the premises. In all cases, therefore, the police should *'exercise their powers courteously and with respect for persons and property, and only use reasonable force when this is considered necessary and proportionate.'*²⁶

Arrest warrants

There are times where the police are required to obtain a warrant before entering a property to make an arrest or conduct a search. A warrant is a document issued by a magistrate or judge to a police officer or other investigator, granting legal authority to enter and search a premises.²⁷ The statutory safeguards which an investigator must follow when applying for and executing a warrant are contained within sections 15 and 16 of PACE, supplemented by Code B.²⁸

Prior to making an application for a warrant, the officer must make a range of enquiries outlined in Code B, including if *'anything is known about the likely occupier of the premises and the nature of the premises themselves.'*²⁹ Such enquiries should give rise to findings about other possible family or children who might be present in the premises during the search and arrest. Furthermore, when making the application, Code B requires that the officer specify *'the person who is in occupation or control of those premises and any others which it is desired to search.'*³⁰

Code B provides that where there is reason to believe a search might have an adverse effect on relations between the police and the community, the officer in charge shall consult the local police or the community liaison officer prior to the search, except in a case of urgency. In urgent cases, they must consult as soon as practicable after the search.³¹

23 Police and Criminal Evidence Act 1984, Code G: Code of Practice for the Statutory Power of Arrest by Police Officers. Paragraph 1.1. Page 2

24 Ibid.

25 Police and Criminal Evidence Act, Code B, Page 3. (Paragraph 1.3)

26 Police and Criminal Evidence Act, Code B, Page 3. (Paragraphs 1.3A–1.4)

27 Law Commission, Search warrants, October 2020. Page 1

28 Law Commission, Search warrants, October 2020. Page 25

29 Police and Criminal Evidence Act, Code B, Page 8. (Paragraph 3.3)

30 Police and Criminal Evidence Act, Code B, Page 9. (Paragraph 3.6)

31 Police and Criminal Evidence Act, Code B, Page 8. (Paragraph 3.5)

The Code also makes clear that on arrival back at the police station following a search of a property, the officer in charge of the search shall make a record, amongst other things, of the names of any people on the premises if they are known.³² This information shall be contained within the search register at each police station where applicable.^{33,34}

While an arrest warrant is often needed before police can enter a property to conduct a search or make an arrest, there are a number of circumstances where a warrant is not necessary. Police constables have powers of entry and search without a warrant under PACE 1984, ss.17, 18 and 32, along with a variety of other statutes and powers under common law. While in some circumstances authorisation from a senior officer may be required, there do not exist the same safeguards concerning family members and children in the home when an arrest warrant is not required. This is understandable given that there will be circumstances where the police are in 'hot pursuit' of a suspect, or where there is a need to enter a property quickly to save 'life or limb'.

Recommendation 1.1

Enquiries about the presence of children or other vulnerable adults must take place when a search and/or arrest happens in the family home, with or without a warrant. Where this is not possible before the event, an officer present should still account for and record details of any children or vulnerable adults present at the search following the arrest. This is so that where appropriate, and if they consent, families can be referred for support.

Information and support required by families at point of arrest

There is a lack of information and support for families, both during and following an arrest. It could be presumed that, at the very least, families would be kept abreast of basic facts about their relative's case, such as the reason for an arrest, their whereabouts, their wellbeing, and when they might be able to see or speak to them next. The reality, however, is that families are often told very little. Even after the family member has been taken away, it often takes some time for families to realise what is happening and why. One father described:

They arrested him, took him down to the police station and left us wondering what was going on. We didn't hear anything from them all day. This is from half past seven in the morning until the early evening when I had a phone call to say I could pick him up.

³² Police and Criminal Evidence Act, Code B, Page 19. (Paragraph 8.1 (v))

³³ Each sub-divisional or equivalent police station

³⁴ Police and Criminal Evidence Act, Code B, Page 20. (Paragraph 9.1)

Another family member described how difficult it was not knowing where their relative was, what they had been charged with, and when they might be able to see them again:

Not knowing was driving me insane, that first week I had no idea what was going on. And that was just horrendous.

Families often have to take it upon themselves to find out basic information about their relative's case. This can be all-consuming for family members and not always possible for individuals with vulnerabilities and specific needs.

And from that point onwards, we were in a position where we had to fend for ourselves. We didn't know anything, there was no help offered as far as information about what we could do or what we should or shouldn't do next.

A number of families described their surprise at the lack of support, explanation, and concern offered to them by the police and other agencies at the point of arrest and in the subsequent days and weeks that followed. One parent reflected:

It seems bonkers to me that the moment the police turned up at my door, instead of just looking for drugs in my house, they should have been going: "Right, who's affected by this? And what services do they need?" They didn't ask me whether he had any other kids or family...

When the police enter a family home to make an arrest or search a premises, they have a responsibility to the individuals left behind. At the very least, the family will need basic information about what is happening and why. This includes what the processes and procedures are in relation to the arrest and potential charge and court appearance. They will also need information about when they will next be able to see or speak to their family member, if this is something they want. This would not only serve to reduce the trauma to families at the point of arrest, but it would also reduce the negative impact of the court process further down the line.

Recommendation 1.2

To the best of their ability, arresting officers should undertake arrests with an immediate family engagement strategy planned. This could include, where appropriate, taking the time to sit down with family members and explain what is happening and why. Police should identify local partners that can provide support to families after arrest. Up-to-date contact information about these partners should be included within the PACE compliant search record book and distributed to those left behind when a premises is entered via a warrant or post-arrest search powers.

Signposting and referral to support

The police play a central role in acting as a bridge to wider agencies in the community, and this multi-disciplinary way of working can be used to ensure families affected by arrest or imprisonment do not continue to fall through the gaps for support. Many families do not hit the thresholds for statutory support: their children might not be known to children's services, or they may not meet the criteria for the Government's multi-agency Supporting Families' Programme, which addresses multiple disadvantages through whole-family support, for example.³⁵ However, we know that arrest is often the start of a period of significant emotional, psychological, and social upheaval for the whole family as they begin the difficult, and what will be for some, long journey through the criminal justice system. The challenges that lie ahead for families are all the more significant if their relative is remanded in custody or sentenced to immediate imprisonment. Where there are children in the family home, it is critical that they are identified and supported at the earliest opportunity.

There is currently varying practice across the country, with some police forces taking proactive steps to ensure families are identified and referred to support following an arrest. The following case studies highlight existing systems that are in place in certain police forces to identify and signpost families to support. Unfortunately, however, they are the exception and not the norm.

Merlin and the Multi Agency Safeguarding Hub

When the Metropolitan Police identifies vulnerable adults or children present during an arrest which takes place in a home, they are required to file a Merlin report. The police officer records information such as names, ages, dates of births and schools. They also consider the emotional state of the children and family and the environment they are living in.

The report goes to a Multi-Agency Safeguarding Hub where it is reviewed by a safeguarding officer co-located in the council. Where there are safeguarding concerns, the report is shared with relevant agencies in the community such as youth offending teams, social services, schools, doctors, and mentoring schemes.

The Multi-Agency Safeguarding Hub

The London Multi Agency Safeguarding Hubs (MASH) Project is a pan-London programme to improve the quality of information-sharing and decision-making between agencies at the earliest opportunity. This has historically been a weak point in multi-agency child protection work and has consistently been cited as a factor in serious case reviews and high-level child protection inquiries. MASH comprises a group of practitioners from the local authority, police, probation, and health who are co-located in one office.

Merlin is an opportunity to identify families who might need support, and when working properly, ensures that the right agencies are alerted to the family and their needs.

35 Gov.UK, 26 March 2021, Supporting Families

Thames Valley Police and Children, Heard and Seen: Operation Paramount

In November 2021, Thames Valley Police and Thames Valley Violence Reduction Unit launched a pilot to identify children affected by parental imprisonment immediately after they have been sentenced to custody. Once identified, affected children are signposted to a local charity, Children Heard and Seen, which exists to support children, and families, in the community who are affected by imprisonment.

Thames Valley Police uses daily HMPPS data from the Prisons Service database to identify the names of individuals who have been remanded in custody or sentenced to immediate imprisonment. This list is then compared to existing records of police, education and local authority data to identify and locate affected children. The family will then be contacted, and a welfare visit will be arranged to discuss any support needs that may have arisen from the arrest.

Currently, the pilot is testing different models to determine who is best suited to conduct a welfare visit at the family home, including a specially trained Schools Liaison Officer or an allocated local neighbourhood officer.

During the welfare visit, the role of Children Heard and Seen will be explained. If the family wishes to receive support and consents to being referred, a practitioner from Children Heard and Seen will help the family navigate the challenges associated with having a relative in the criminal justice system. Once a trusting relationship has been established between Children Heard and Seen and the family, they will conduct an Early Help Assessment over time to understand the context of the family unit and find out what support they need. Children Heard and Seen can provide 1-1 support with a skilled practitioner, group work and volunteer mentoring, as well as help for the person caring for the child(ren).

The pilot has two main aims:

1. create an accurate identification process for children affected by parental imprisonment using partnership data
2. develop a referral structure between Thames Valley Police and Children Heard and Seen to support children adversely affected by parental arrest and imprisonment.

Recommendation 1.3

Every police force in England and Wales must have a mechanism of identification and referral for families and children affected by arrest and imprisonment. A referral should be made to the Multi-Agency Safeguarding Hub, and if appropriate and where possible, a voluntary sector organisation or a family hub in the community.

Effective police training is essential in mitigating the impact of arrest

Police engage regularly with vulnerable individuals who have experienced trauma. Many children and families of prisoners will have experienced trauma, possibly because of the environment they have been living in or the crime committed by their relative. And as highlighted by our research, an arrest can itself be another traumatising moment for families and children.

We, therefore, welcome the commitments made to a public health approach in the *Policing Vision 2025*.³⁶ This strategy focuses on preventative action, identifying vulnerability, and improved data sharing between multiple agencies. To achieve these aims, policing must be trauma-informed as it *'enables a more empathetic approach, reduces the risk of retraumatising, and increases the likelihood of understanding what's behind the presenting issue.'*³⁷

Where there is good practice, policing is compassionate, relationship-based and child-centred. It is also proactive, with positive steps taken to ensure children and families are picked up by specialist voluntary sector organisations in the community, such as Children Heard and Seen.

However, our research has indicated that too often, police forces are falling short in this regard. We have discussed how a significant proportion of the families we interviewed felt they had been treated unfairly by the police during the arrest, despite having nothing to do with the alleged offence. Some reported that the police had been heavy-handed, while a number felt they were made to feel complicit in the alleged offence. This only served to compound the family's distress.

Police training

Trauma-informed policing will have a positive impact on the experience of everyone who engages with the police, yet this approach will particularly benefit children who witness an arrest. In 2016, a report into the impact of arrests on children by NICOO³⁸ found that amongst all police forces in England, only one was able to provide evidence of any guidance and training provided within the force which makes reference to the children of suspects.

However, since then, a great number of police forces have taken steps to ensure that new recruits are offered training on Adverse Childhood Experiences, of which parental imprisonment is one. There is also a greater awareness and adoption of trauma-informed practices and training across all police forces. This is particularly the case amongst the 18 police forces where there is a Violence Reduction Unit.

Through the course of this research, however, we have not identified any further training specifically on the impact of arrest and imprisonment on children and other vulnerable individuals.

36 NPCC, *Policing Vision 2025*, 2016.

37 Public Health England, *Public health approaches in policing*, 2019. Page 9

38 Tilley-Riley, J. *Collateral damage: The impact of witnessing a home raid by the police, on the children and the siblings of offenders in England*, 2016. Page 18

Recommendation 1.4

Specific training for the police into the impact of arrest and imprisonment on children and families should be provided by the College of Policing. The training should seek to mitigate the distress caused to the child during the arrest through child-centred and trauma-informed practices. This training should be incorporated into the refresher training and online learning undertaken by police forces.

chapter two

The courts

Introduction

The court process can be a confusing and isolating time for families. The traditions, procedures, and terminology of the criminal courts can be alienating to those who have never set foot inside a courtroom before. Where there is a trial following a not guilty plea, families will have to sit through a long and often complex process. They might hear disturbing evidence and watch as their relative faces cross-examination. Finding out the verdict of a trial and/or the sentence can be a distressing moment for which families often feel unprepared. While the procedures and processes in court are a necessary part of the judicial process, the negative impact on family members can be significant.

James' story

James' son was arrested for a sexual offence. The trial did not take place for two years after the arrest which caused significant anxiety and distress for the family. As parents, James and his wife felt extremely isolated during this time. They were frightened that people in the community would stigmatise them due to the nature of the offence and they often did not leave their house.

James helped his son prepare for the trial by collating significant amounts of information and evidence about the allegations. The process of diving deeply into the case was particularly traumatising for him.

James' wife was too upset by the prospect of her son going to prison and was scared that they would be subjected to abuse in court, so James attended his son's trial alone. Without any support during the court process, James found it difficult to understand what was going on. At the conclusion of the long trial, James' son was sentenced to 16 years in prison.

James now struggles severely with his mental health. In order to cope, he has started taking anti-depressant medication and attends a peer support group.

James continues to help his son appeal the verdict despite it taking a toll on his emotional wellbeing.

It should be noted that one family's outlook on the defendant's trial and sentence can vary considerably to another's. Families themselves might be the direct or indirect victim of the offence, and the relationship with the defendant will likely have broken down as a result. The majority of families that we spoke to had continued to maintain positive family ties. Often, the defendant had been bailed to the family home, and the family had continued to support them throughout the process. For those whose relative had not already been remanded in custody, the moment the sentence of imprisonment was handed down signalled a moment of separation for families, which caused substantial distress and upheaval.

We welcome the Joint Committee on Human Rights (JCHR)'s enquiry into *'The right to family life: children whose mothers are in prison'* which was published in September 2019.³⁹ The committee found that there is insufficient quantitative data collected on the number of children whose mothers are in prison, that Sentencing Guidelines do not go far enough to ensure sentencers have sufficient information to consider the needs of children when a primary carer is being sentenced, and that there is lack of support for children whose parent is in prison and for their kinship carers.

We acknowledge the Government's response to the recommendations made in the JCHR report, as well as the subsequent announcements made in the Prisons Strategy White Paper to begin recording data on prisoners' family circumstances and caring responsibilities.⁴⁰ However, we believe that the Government's commitments do not go far enough to adequately safeguard the children of prisoners, which we will explore later in this chapter.

Key findings

Through the course of our research, the following themes emerged in relation to the impact of the court process on families, which we will explore in further detail, including:

- the impact of court delays
- the impact of hearing the sentence
- the impact of the media coverage of the court process
- the impact that a lack of support has on families during the court process
- the impact of sentencing decisions on family and children

We consider that both the courts and other agencies involved in the sentencing process have a responsibility to children and dependents separated from their caregivers through imprisonment, and they should be afforded the same concern and protections that are in place in the family courts. This must begin with adequate data collection and an adherence to the court's duty to consider dependents in sentencing.

³⁹ Joint Committee on Human Rights: UK Parliament, *The right to family life: Children whose mothers are in prison*, 2019.

⁴⁰ Gov.uk, *prisons strategy white paper*, December 2021

Impact of court delays

Many families await the trial or sentence of their family member for some time with anxiety and trepidation. One family member, awaiting the sentence of her son, explained:

I mean, I don't want to go to court. Does that makes sense? I don't want to have to face everybody and I certainly don't want to see my son be sent down.

Difficult and lengthy waits for a case to be heard in court are common. Some individuals must wait months or even years for their court date to arrive.

And, you know, it's just all the delaying of things causes more anxiety because you've built yourself up for that date and then for it to be delayed, you then have to go through it all again.

The backlog in the criminal courts existed before the Covid-19 pandemic. The Ministry of Justice '*allocated 16 per cent fewer sitting days in 2019–20 than 2018–19*' as it expected the number of court cases to decline, although it was projected that additional police funding would increase the demand on the court system.⁴¹ Covid-19 restrictions merely exacerbated this issue. Her Majesty's Courts and Tribunals Service had to suspend jury trials and modify large parts of the estate which further reduced court capacity.⁴² In the Crown Court, which hears the most serious offences, the backlog increased by 48 per cent between March 2020 and June 2021 to 60,692 cases and is predicted to last until 2024.⁴³ This means that victims, defendants and families are waiting longer than ever for their cases to be heard. In June 2021, cases had been waiting an average of 230 days to be heard, 84 days longer than cases in March 2020. Over this period, the number of cases older than a year increased by 302 per cent from 2,830 to 11,379. The impact of delays have been felt by almost everyone passing through our courts, including the families of defendants.

Families described how distressing long waits and delays in the system can be. This was felt most acutely when their family member had been remanded in custody or was awaiting trial or sentence. Typically, there are limitations on how long an individual can be remanded in custody. However, in response to the Covid-19 pandemic and the growing court backlog, the Government extended the maximum time limit a defendant could be held before trial by 56 days. Between March 2020 and June 2021, the number of people held in prison on remand increased by 27 per cent despite the prison population declining by 6 per cent over the same period.⁴⁴ On September 30th 2021, there were 12,990 people held in prisons in England and Wales on remand (16 per cent of the total prison population).⁴⁵ It is important to note that one in ten people remanded in custody by magistrates' courts and 11 per cent of people remanded by the Crown Court were subsequently acquitted.⁴⁶

41 National Audit Office, Reducing the backlog in the criminal courts, October 2021. Page 6

42 Ibid, Page 6

43 Ibid, Page 11

44 National Audit Office, Reducing the backlog in the criminal courts, 2021. Page 7

45 Ministry of Justice, Offender management statistics quarterly: April to June 2021

46 Table Q4.4, Ministry of Justice (2021) Criminal justice statistics quarterly June 2021, London: Ministry of Justice

Impact of hearing the sentence

There are times where it is clear that a defendant is likely to receive a sentence of immediate custody at court, and lawyers will be able to advise their defendant accordingly. However, it is difficult for families and defendants to ever be fully prepared for what will happen at trial and sentence. Trials can take unexpected turns, judges may pass sentences that are longer than anticipated, and sometimes lawyers simply get it wrong.

During the course of our interviews, families described the moment the verdict was returned or the sentence was passed with deep emotion.

After sentencing he turned and looked at me and I could see he was bereft really and what could I say. You can't do anything. You can't even speak to him.

As was the case for Rachel, families are not able to speak to their relative following sentence; the individual is ushered downstairs to await their transfer to prison. Families described how difficult it was 'not being able to say goodbye'.

So then he's just taken down, and you know, there's just no opportunity to say goodbye. It's brutal. I understand that it's punishment, and there's a need for justice, but it just didn't feel like justice.

This experience was even more challenging for families who did not expect that their relative would receive a custodial sentence. One mother expressed how unprepared her son was for prison:

Even the barrister hadn't told him to take anything to court because she was sure he was going to be found not guilty, so he had nothing with him, except some money I'd given him just in case...

This is often most devastating for parents with dependent children, who have not had time to say goodbye or make the necessary childcare provisions, something we will return to later in this chapter.

Many families described the panic after an unexpected sentence of imprisonment. Some said they rushed to the nearby shops to buy essentials that they might need for prison, only to find that the items could not be handed over for security reasons. Others described a sense of bewilderment and frustration at not being able to speak to their relative. One family was told by the barrister of their son's distress following sentence but could not go down to see him.

Lincolnshire Action Trust runs the SPARC project which works with individuals and their families to minimise trauma and offer crucial support in the moments following sentence.

Case study: Lincolnshire Action Trust – ‘SPARC’ programme

‘It isn’t rocket science; it is just being kind’

SPARC (Supporting People After Remand and Conviction) is a programme run by Lincolnshire Action Trust in Lincoln Magistrates’ Court and HMP Lincoln. Set up in 2013, a member of staff visits individuals in court cells and prison receptions following remand or sentence.

At a moment of crisis, you start the safer custody process. You ask the individual: ‘what do you need?’

They might say ‘I am worried about my child, I’m worried about my dog, I’m worried about my car.’

SPARC practitioners will discuss any concerns they might have and put a plan in place to help. Critically, this programme creates a feedback loop between the family and the defendant. For example, if a family member is concerned about the individual that has been sentenced, a member of staff will offer to speak to them and pass on any messages. A SPARC practitioner can then update the family in court on their relative’s condition.

‘Is that your mum in court, shall I go up and see her?’

Many families are extremely worried about the welfare of their relative after they have been sentenced. Programme staff can identify if a person is at risk of self-harm, at risk from others, or experiencing suicidal ideation. In these instances, staff complete a safer custody form which goes with the individual to prison. This form notifies reception and safer custody staff in the prison that there is a welfare concern. It also provides useful contextual information which will be used to start a conversation and provide tailored support.

SPARC practitioners are also able to explain to individuals what will happen to the prisoners over the coming hours and days. In HMP Lincoln, the SPARC team are also present on the wing and can therefore provide reassurance to individuals in court:

‘I will be there, and I’ll see you tomorrow on the wing.’

The impact of a lack of support for families through the court process

A consistent theme throughout our research has been that families and children affected by imprisonment are an invisible community within society with little to no support offered to them at any juncture along the journey through the criminal justice system. This was clearly articulated by the families we spoke to, and is also evident in the lack of data on the number of families and children affected by imprisonment.

You feel like saying to people, if you knew what we’ve just been through, you know, over the past two days. But we couldn’t, you can’t. You’re in a position where horrible things are happening, but you don’t have the comfort and support of people around you.

Families can be an important source of support for defendants as they pass through the court system. Indeed, families often choose to go to court against their own wishes to support their relative through the trial and sentence. However, families described how hard it was to support their relative while knowing and understanding so little about the court process themselves.

While some support is rightly offered to victims and their families, and defendants will often be appointed a solicitor and/or barrister to guide them through the process, there is currently very little support for families of defendants. The impact of the lack of support for families during the court process is stark.

We've had to find our own way through this. There's been no one to say right, okay, this is what will happen next. This is the process. No one's done that – we've just had to find out ourselves.

It would have been helpful to have known and understood the process. I was sat in court for five days and there was nobody there to explain to me "This is what will happen next, this is the process." Nobody did that.

Historically, there has been ad hoc provision for families passing through the courts. This has largely been delivered by voluntary sector organisations, such as Pact and POPS who placed support workers in courts across the country, offering both practical and emotional support or advice. They would take time to talk to families before their relative appears in court, sit with them through the hearing and provide support for the family afterwards. However, a lack of funding in this area has meant that these services have largely dried up, leaving very little to no support for families journeying through our court system.

The kind of provision in court that families need is not complicated or costly. But sometimes the smallest intervention can be transformative to families and their ability to go on supporting their relative through the criminal justice system.

Recommendation 2.1

Voluntary sector organisations should be commissioned to provide support for families of defendants across courts in England and Wales, ideally in the form of court-based support workers. This will help ease the pressure on staff and legal professionals within the court system.

Impact of media coverage

Newspapers and other media outlets routinely report what happens in court. Journalists are allowed to go to court and report on anything that is said or given as evidence. They are also generally allowed to print information about the individuals who go to court or

provide evidence. Often the press reports the name of the defendant and their home address, including their street. In doing so, reporters can inadvertently identify any family members of the defendant who continue to live at the address.⁴⁷

Families described their fear of vigilantism in the local community after returning home following the publication of their address by the police, on social media, or in the local press:

...We got a text message from a family member telling us that the police and the local evening news had posted it on Facebook. And you know, me and my daughter were scared. We were scared of coming home. I did come home on Tuesday, but I was shaking like a leaf basically as soon as I got near the house because I didn't know what was going to happen and I didn't know how people were going to react. I was scared of being here on my own but my daughter never came home. No, she went and stayed at her Auntie's house, she has suffered big time, her mental health has suffered big time.

One family described the need for police protection following threats from the local community:

And the police had given me some window alarms and a panic alarm as well. They were monitoring the street, they were driving up and down a few times a day...

Some families felt they had no other choice but to move house to an entirely different neighbourhood in order to reclaim some anonymity following the press coverage of the court case. This brings with it significant challenges for continuity in work and education. It can also create a sense of isolation as families move away from friends and relatives. In this vein, a child expressed the loneliness she felt after having to move away from her school and network of friends in her local community due to the nature of her father's offence:

I didn't have any friends. I lost all my friends... I moved away and they didn't want to keep in contact with me after they found out. I felt lonely.

The ability of the press to report on court cases is essential to open justice – court proceedings must be transparent and publicly accessible to allow for external scrutiny. Therefore, the right to report on court cases should be protected.

Journalists are allowed to include a defendant's name, age, and address in press reports. The Independent Press Standards Organisation (IPSO) notes that *'it is important to include these details so that readers do not confuse these people with someone with the same name.'* Arguably, the press could be at risk of identifying the wrong person, and therefore liable to defamation claims, if they do not specify details such as the street the

⁴⁷ Independent press standards organisation, Court reporting: what to expect, information for the public. Page 6

individual lives at. However, IPSO also notes that generally, unless editors can prove there is a public interest in doing so, newspapers (and other outlets) are not allowed to report information which *'identifies a friend or relative of a criminal, who is not at all relevant to the court case.'*⁴⁸

Our research suggests that court reporters are falling short in this regard by inadvertently identifying families of defendants by reporting the details of where they live. Indeed, often families are identified in the local community because of press reports, having until that point maintained a level of anonymity. While it is vital that open justice is maintained, court reporters and their editors should consider whether it is necessary to publish the details of a defendant's street when it is known that the family of the defendant resides at the same address. Unless it is in the public interest, and where possible, press agencies should limit details of a defendant's residence to the local authority only.

The impact of sentencing decisions on family and children

The decisions that are made in the criminal courts to sentence individuals to immediate custody often have profound consequences for the families left behind. We have already discussed that for some families, the decision is welcomed – especially if they have suffered at the hands of their relative.

It was brutal. It was absolutely brutal to think that anybody's life can be turned upside down in that way, just instantly, you know, in a heartbeat. That was, you know, devastating.

For children of prisoners, the consequences are particularly severe. An estimated 312,000 children are separated from their parents by imprisonment each year.⁴⁹ Without support, these children are at increased risk of suffering psychological, economic and social harms as a result of their parent's imprisonment. Furthermore, of the estimated 17,000 children separated from their mother through imprisonment each year, the vast majority will have to move out of their family home.⁵⁰ Only nine percent will be cared for by their fathers while their mother is in prison.^{51,52}

Crucial research undertaken by Dr Shona Minson has shown the differential treatment between children who are separated from their primary carers in the family courts, and those separated from their primary carers through imprisonment in the criminal courts. Under Section 1(1) of the Children Act 1989, the child's best interests are the paramount consideration of the family court. In the criminal courts, children are *'so overlooked that the question of whether a woman has dependent children is not even included in routine data collection at sentencing or imprisonment.'*⁵³

48 Independent Press Standards Organisation, Court Reporting: What to expect, Information for the public. Page 8; Editor's Code of Practice, Clause 9(i).

49 Crest Advisory, Children of Prisoners: Fixing a broken system. February 2019. Page 7

50 Daniel P Mears, Sonja E Siennick, Young Adult Outcomes and the Life-Course Penalties of Parental Incarceration, 2015. Page 1

51 Crest Advisory, Children of Prisoners: Fixing a broken system. February 2019. Page 20

52 Home Office, The Corston Report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the criminal justice system. 2007. Page 20

53 Minson, S. Maternal Sentencing and the Rights of the Child, Palgrave Socio-Legal Studies, 2020. Page 2

Indeed, there is currently no accurate, reliable or publicly available data of the number of children affected by parental imprisonment. This not only affects the ability for policymakers to understand the nature and scale of the issue, but it also means that children are less likely to be identified and offered crucial support following sentence. We therefore welcome the commitment made in the recent Prisons Strategy White Paper to collect and publish data on primary carers in custody and their children.⁵⁴ We call on the Government to expedite this process, ensure that the data is published quarterly, and further disaggregated according to sentence length and the personal characteristics of the child. We also welcome the commitment to work with other government departments to commission updated research on the number of children affected by parental imprisonment.⁵⁵ This research should acknowledge and examine the wide-ranging impacts of a prison sentence on children, including the social, psychological and economic effects of imprisonment.

Current legislation and guidelines which affect the rights of families and children and impact sentencing decisions

The Human Rights Act 1998

Article 8 of the European Convention on Human Rights, which was ratified in the form of the Human Rights Act 1998, protects everyone's right to a private and family life.⁵⁶ Article 8 can be limited in certain circumstances, including *'in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'*⁵⁷ However, any limitation must be balanced in the interests of the individual and of the community. Article 6(1) of the Human Rights Act 1998 makes clear that *'it is unlawful for a public authority⁵⁸ to act in a way which is incompatible with a Convention right.'*⁵⁹

When the State separates a family through imprisonment, a balancing exercise between their Article 8 rights and the interests of the community must take place as part of the sentencing process.

The UN Convention on the Rights of the Child 1989

The UN Convention on the Rights of the Child 1989 (UNCRC) also has relevance for all courts in England and Wales when sentencing parents and other carers to custody. Crucially, Article 3 states that *'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.'*

54 Ministry of Justice, Prisons Strategy White Paper, 2021. Page 40

55 Ministry of Justice, Prisons Strategy White Paper, 2021. Page 41

56 The Human Rights Act 1998, Article 8(1)

57 The Human Rights Act 1998, Article 8(2)

58 A public authority includes a court or tribunal, or any person whose functions are of a public nature, with the exception of parliament (HRA 1998, Article 6(3)(a)-(b)).

59 The Human Rights Act 1998, Article 6(1)

Article 12 makes clear that where a child is temporarily or permanently deprived of his or her family environment or cannot be allowed to remain in that environment for their own protection, they shall be entitled to special protection and assistance provided by the State. Furthermore, Article 2 states that all parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction *without discrimination*.⁶⁰

The duty of the court to dependents in the sentencing process

Case law

There is a growing body of case law in this area which is instructive for the way courts should balance the rights of children and families affected by imprisonment with the seriousness of the crime committed by the defendant.^{61,62} While a thorough investigation of the case law in this area is beyond the scope of this paper, the case of *R v Petherick [2012]* is worthy of consideration. It reads: *...the sentencing of a defendant inevitably engages not only her own article 8 family life but also that of her family and that includes (but is not limited to)⁶³ any dependent child or children. The same will apply in some cases to an adult for whom a male or female defendant is a carer and whether there is a marital or parental link or not. Almost by definition, imprisonment interferes with, and often severely, the family life not only of the defendant but of those with whom the defendant normally lives and often with others as well.*⁶⁴

Lord Justice Hughes reflects that oftentimes in cases that are on the cusp of custody '*the interference with the family life of one or more entirely innocent children can sometimes tip the scales*',⁶⁵ meaning that a custodial sentence, which might otherwise have been proportionate, becomes disproportionate. In cases where a custodial sentence cannot proportionately be avoided, the effect on children or other family members might afford grounds for mitigating the length of sentence.⁶⁶ Whether this happens in practice is another story, and one we shall return to later in this chapter.

Sentencing Guidelines

In addition to case law, the courts are also guided by Sentencing Guidelines set by the Sentencing Council. The court is required to consider aggravating and mitigating factors which might affect the length and category of sentence that the judge or magistrate administers.

In 2019 the Sentencing Council introduced an expanded explanation for sentencers when considering factors that might reduce seriousness or reflect personal mitigation. The following paragraphs are contained within the revised guidelines:

60 UN Convention on the Rights of the Child 1989, Articles 2, 3, 12

61 *R (on the application of P and Q) v Secretary of state for the Home Department* [2001]

62 *R v Petherick* [2012] EWCA Crim 2214

63 It is important to recognise that Article 8 is engaged not only in cases of dependent children, but also with regards to other forms of dependents where the individual being sentenced has a caring role. This might include vulnerable adults, for example.

64 *R v Petherick* [2012] EWCA Crim 2214. Paragraph 17

65 *R v Petherick* [2012] EWCA Crim 2214. Paragraph 22

66 *R v Petherick* [2012] EWCA Crim 2214. Paragraph 24

For offenders on the cusp of custody, imprisonment should not be imposed where there would be an impact on dependents which would make a custodial sentence disproportionate to achieving the aims of sentencing.

Where custody is unavoidable, consideration of the impact on dependents may be relevant to the length of the sentence imposed and whether the sentence can be suspended.⁶⁷

The expansion of the Sentencing Guidelines marked a significant and welcome step forward in the Sentencing Council's recognition of the needs and rights of dependents and carers in the criminal courts. It also brought the guidance in line with much of the case law in this area. However, at present, being a sole or primary carer is merely categorised as a potential reason for mitigation that *should* be considered alongside several other factors. Subsequently, it may well be overlooked unless it is specifically brought to the attention of the court. It is argued by Dr Shona Minson that there is more the Sentencing Council can do to ensure that the guidelines outlined above are adhered to, namely requiring courts to consider dependent relatives as a separate step in the sentencing guidelines.⁶⁸

The failure of the courts to consider dependents at point of sentencing

We have discussed the need for children and other dependents to be given consideration in the sentencing process when a parent is sentenced in the criminal courts and the international legislative framework which protects the rights of the child and family in this regard. We have also considered the existing duties on the courts to consider dependents.

However, past research in this area has evidenced the failure of courts to give due regard to the impact of sentencing on dependent children. Indeed, a study (Epstein, 2014) which analysed 75 sentencing decisions concerning mothers found that the courts did not adequately consider the Article 8 rights of children.⁶⁹ In addition, research (Minson and Condry, 2015) was conducted into appeal decisions in adult sentencing cases between 2003 and 2011.⁷⁰ In twenty-one of the twenty-seven cases in which the sentence was reduced, the appeal court found that dependent children were a specified factor leading to their decision to reduce the sentence. In other words, the lower courts were not giving due consideration to dependents and were passing sentences on women which were disproportionate to the harm suffered by the child.⁷¹

Furthermore, research (Minson, 2017) into the attitudes of Crown Court judges found that *'judges and magistrates do not place sufficient weight on the welfare of the children of defendant mothers when sentencing despite the mention of dependents in the mitigation*

67 Sentencing Guidelines, Overarching guidelines: factors reducing seriousness. 01 October 2019

68 Minson, S. 'The sins and traumas of fathers and mothers should not be visited on their children' *The Rights of Children When a Primary Carer is Sentenced to Imprisonment in the Criminal Courts: Prisons Punishment, and the family: towards a new sociology of punishment*, Page 236

69 Epstein, S. Mothers in prison: The sentencing of mothers and the rights of the child, 2014

70 Minson, S. 'The sins and traumas of fathers and mothers should not be visited on their children' *The Rights of Children When a Primary Carer is Sentenced to Imprisonment in the Criminal Courts: Prisons Punishment, and the family: towards a new sociology of punishment*, Page 139

71 *Ibid*, Page 139

*factors, case law, and authorities.*⁷² Half⁷³ of those interviewed did not make any mention of family dependents when asked to identify what kinds of personal mitigation influenced them in sentencing decisions.⁷⁴ In a further study, one in five judges held that the consequences of maternal imprisonment on children are entirely the responsibility of the defendant mother, with one judge going so far as to say that it made them more culpable.⁷⁵

Further work is now needed to see what effect the expanded Sentencing Guidelines is having on the consideration of dependents in sentencing decisions.⁷⁶ The hope and expectation is that practice will have improved as a result of these important changes. However, neither the Sentencing Guidelines nor the case-law creates a mandatory requirement to consider the best interests of the child or the impact that the sentence will have on them. There is a risk, therefore, that dependents will continue to be overlooked when crucial decisions are being made about sentence. We consider there will only be a shift in the entrenched practice detailed above when the duty to consider dependents at the point of sentence is given statutory force.

Recommendation 2.2

The Government should introduce a statutory duty to be placed upon the courts to consider the best interests of the child and other dependents or the impact that the sentence would have upon them. This would be in line with existing sentencing guidelines and case law in this area.

Reticence to disclose information pertaining to dependent children

Critically, a sentencer cannot take dependents into consideration if they do not know of their existence. Our research highlighted that some parents are reticent to disclose information about their children, including the fact that they exist at all, due to a fear of the involvement of children's services or being stigmatised by professionals or peers. This can act as a barrier to support. For example, while the role that schools play in providing support to children affected by imprisonment is beyond the scope of this paper, it should be noted that in many instances, these concerns prevent parents from disclosing to school leaders or teachers that their child has a parent in prison. Further research is needed to understand what more schools can do to identify and support children of prisoners who are within their care.

Concerns around the involvement of statutory agencies were particularly acute amongst mothers who themselves had grown up in the care of the state and wanted to spare their children the same ordeal. Parents made every effort to arrange their own care

72 Minson, S. *Who cares? Analysing the place of children in maternal sentencing decisions in England and Wales*, 2017, Page 233

73 Answers based on interviews with 20 Crown Court judges.

74 Minson, S. *Who cares? Analysing the place of children in maternal sentencing decisions in England and Wales*, 2017

75 Prison Reform Trust and Families Outside, *What about me? The impact on children when mothers are involved in the criminal justice system*. 2018.

76 It should be noted that a judge's sentencing decision cannot be reviewed until it is appealed in a higher court, meaning that a thorough examination of the sentencing decisions made in lower courts is not immediately possible.

arrangements for their children, sometimes with distant family members, to protect them from the care system. One interviewee whose children lived with her estranged mother while she was in prison stated:

I think a lot of my issues stemmed from my journey through the care system because during my first two years, I was moved probably about 20 times, even more. I was bounced from different carers to different foster placements. You know, to me, the whole process of when you go into care isn't for you to remain there, it's for you to go back home, you know it should be a temporary thing. And it just, it wasn't temporary. When I look at my son now, I think at your age, that's when my mum made that decision... And I think I could never ever put my kids through that. Like I'm lucky that she [looked after my children when I was in prison] and they didn't end up in the care system.

Parents will be less willing to disclose information about dependents where there is not a trusted relationship with their probation worker or other point of contact. Trauma-informed training is critical for practitioners across the breadth of the criminal justice system, and training for probation and other staff into the impact of imprisonment on parents and children should also be provided.

Pre-sentence reports

Pre-sentence reports (PSRs) are one avenue by which courts can be informed of the existence of dependent children or other vulnerable adults. The Probation Service provides an assessment of the defendant, as well as the nature and causes of the offending behaviour, the risk they pose and an independent recommendation of the option(s) available to the court when making a sentencing determination. The Probation Officer collates this information and comes to a judgement on the appropriate sentence through an interview with the defendant or through liaison with other clinical, community-based, and criminal justice agencies. As outlined in the Government's 2019 Sentencing White Paper, *A Smarter Approach to Sentencing*, the PSR is 'key to supporting effective decision making in the criminal justice system.'⁷⁷

However, the quality of PSRs is inconsistent, with an increasing number being delivered orally. In many cases, no pre-sentence report is provided at all. Between 2010 and 2020, the total number of PSRs prepared by the Probation Service decreased by 68 per cent to 68,077.⁷⁸ While this can be explained in part by the downward trend in the numbers of individuals sentenced in all courts over the same period, it goes some way to demonstrating that the use of PSRs is decreasing despite being a vital resource that helps sentencers understand the context of the offence and the impact a sentence may have on the wider family.

77 Ministry of Justice, *A Smarter Approach to Sentencing*, 2020. Page 51

78 Ministry of Justice, *Offender Management Statistics Bulletin, England and Wales*, 2021. Page 16

In the Sentencing White Paper, *'A Smarter Approach to Sentencing'*, the Government announced a pilot to identify those individuals who would benefit from a PSR earlier in the sentencing process, to train Probation to deliver higher quality reports, and to give greater focus to those with complex needs including female offenders and offenders on the cusp of custody.⁷⁹ The pilot was launched in March 2021 and rolled out across 15 magistrates courts.⁸⁰ At the time of writing, we are awaiting the full evaluation after 12 months.⁸¹

We welcome the pilot but consider that work to improve the quality and consistency of PSRs must not stop there. It is important to note that existing guidance available on the Probation Service Intranet outlines that information about the existence and impact on children must be included when writing PSRs for women, recognising the increased likelihood that they will be primary carers. Pre-sentence reports are a critical tool in the sentencers' toolbox and work must continue to ensure that they remain viable and effective at providing the necessary information for sentencers to sentence appropriately in a way that accounts for the impacts on families and children.

In response to the JCHR enquiry, the Government committed to work which aims to identify common patterns in cases where women are sentenced to custody without a PSR and the National Probation Service has introduced a checklist to improve the quality of PSRs.⁸² The Government has also stated that PSRs will play a role in its new programme of sentencing reform to tackle the drivers of offending, yet they emphasised that the decision to adjourn or stand down a case for a PSR rests with sentencers.⁸³ Whilst these actions signal a step in the right direction, we believe that the Government must go further to ensure the rights of the child and the impact on dependents are given due consideration in sentencing.

Recommendation 2.3

Individuals must not be sentenced without a pre-sentence report (PSR). Where there is no PSR available, unless in exceptional circumstances, the hearing should be adjourned until one is provided. PSRs must consider the impact of a custodial sentence on any dependents.

While the PSR is an essential mechanism to ensure courts are informed, where possible, of the existence of children and other dependents, they do not allow for the voice of the child to be heard in the sentencing process. Not every child is the same and will have the same wants or needs. In light of this, the Prison Reform Trust is supporting a pilot project to evaluate the use of a Child Impact Assessment for children with a primary carer in the criminal justice system.

⁷⁹ Her Majesty's Inspectorate of Probation, *The quality of pre-sentence information and advice provided to courts*, 2020. Page 5.

⁸⁰ Ministry of Justice, *A Smarter Approach to Sentencing*, 2020. Page 50–52

⁸¹ Gov.uk, *Pre-sentence report pilot in 15 magistrates' courts: information about the pre-sentence report pilot in 15 magistrates' courts*, May 2019.

⁸² Ministry of Justice, *Government Response to the Joint Committee on Human Rights Twenty-Second Report of Session 2017–19*, November 2019.

⁸³ *Ibid*

Case study: Child Impact Assessment pilot

The Child Impact Assessment, which was co-created with mothers and children with lived experience, asks a series of simple questions to help understand the needs of the child and identify what support they might need. This tool aims to give children the opportunity to be meaningfully involved in decision-making about their support and care. Actions are written in children's own words, and information sharing with relevant agencies is open, transparent, and agreed with the child. The accompanying notes (for staff completing the assessment with children) provide an overview of the issues children may face and a list of suggested actions.

Preliminary findings from the pilot suggest that a Child Impact Assessment would work best when carried out by a trusted individual with whom the child already has a relationship or a staff member at a voluntary sector organisation that has experience of supporting families affected by imprisonment.

Crucially, the assessment and accompanying notes can be accessed at every stage of their mother's journey through the criminal justice system to allow tailored support to be provided. Given the importance of supporting all children affected by imprisonment, there are plans to adapt the assessment for children who have a father, or any family member, in prison.

Early assessment of need of the child after sentence

There will be times where the court, having balanced the rights of the child and parent with the seriousness of the offence, will consider they have no choice but to sentence the defendant to immediate custody.

At present, the criminal court does not have a responsibility to the child whose needs may have been raised in mitigation, beyond considering them in their sentencing decision. Unlike the family courts, it does not have jurisdiction to make decisions about the child's ongoing care or living arrangements.

The imprisonment of a carer, and particularly of a primary carer, can be a life-altering moment for a child. Despite this, when a child is separated from their parent through imprisonment, there is no statutory mechanism in place to identify the child. As a result, there is no assessment of their needs and often these children fall through the gaps of support. Currently, schools will not automatically be informed, children's services will not be notified (unless the child is already under their watch), and courts do not have a duty to the child to ensure that an appropriate agency is notified of their situation.

Leo's story

Leo is a 16-year-old boy who has been living at home on his own for several months following the arrest of his mum. His father passed away a year ago and his mother has been remanded in custody for fraud.

Since he has been living alone, Leo has been using his mother's bank card which enables him to access the money his mother receives from her widow's pension, tax credit and child benefit. Without this, Leo would be unable to pay for food or household bills.

Although he would like to stay in the family home, he has recently received a Section 21 eviction notice stating that the occupier should vacate the property. He also worries about paying the energy bill as a large debt has accumulated due to non-payment.

Recently, his mother was given a custodial sentence, meaning Leo will live alone for the next seven months. As his mother has now been convicted, she will no longer receive benefits. Given his age, Leo is unable to claim benefits himself. Amongst other concerns, these financial pressures mean that Leo is anxious and he struggles to sleep at night.

Leo has hidden his mother's conviction from his neighbours, instead telling them that she is working away from home. He has also not told his school that he is living alone. Although he has continued to speak to his mum daily on the phone, she does not want him to visit her in prison.

Leo's situation was only picked up after his mother was reported missing. The police then visited the family home where Leo confirmed that she was in prison. As Leo was living alone and without support, he was identified as vulnerable. As a result, he was assigned a social worker and referred to a voluntary sector organisation called Children Heard and Seen, who are providing practical and emotional support for Leo.

Critically, we heard several accounts from our alliance charities of children being left alone, without support, after parental imprisonment. These children were identified and referred in a variety of different ways but often there was no involvement from children's services at the point of referral.

We consider that, whenever a child is affected by parental imprisonment, relevant and appropriate agencies and professionals in the community must be alerted to the child's needs. It is important to recognise that a great number of children affected by parental imprisonment will not require the ongoing intervention of social services or other forms of statutory or non-statutory support. Indeed, some families are likely to have concerns regarding the unwarranted involvement of statutory services. However, given the scale of the potential harm that may occur if a child is not identified when their primary carer is sentenced, there must be a whole system approach, where the court works with the local authority, probation, healthcare professionals, and voluntary sector organisations to ensure that, where appropriate, children who require support are picked up.

Section 17 of the Children's Act 1989

Section 17 of the Children Act 1989 provides for children in need who might require extra support from the local authority and will therefore be entitled to an assessment from children's services. While children with a primary care giver in prison can be assessed under section 17 of the Children Act 1989, there is no obligation for local authorities to class these children as 'children in need' under this definition. The consequence of this is that these children rarely receive support from the local authority. This also means they do not benefit from extra health or education resources, and they do not receive priority places in schools if they are required to move schools as a result of their parent's imprisonment, as is often the case.⁸⁴

Currently, children could be left without any support at all in the community if their primary caregiver is given a custodial sentence. This can be a source of significant stress and can

⁸⁴ Minson, S, 2019, Written evidence to the Joint Committee on Human Rights from Dr Shona Minson, Centre for Criminology, University of Oxford (CMP0010)

force children to drop out of full-time education to undertake caring duties for younger siblings or shoulder the burden of looking after the home without any external support. The Government has a responsibility to these children when it separates them from their parents. Subsequently, we believe that, where appropriate, every child that is separated from their primary caregiver through imprisonment should be entitled to an automatic assessment from children's services so that, in instances where it is required, support can be offered.

Recommendation 2.4

Children with a primary carer in prison should be identified as children in need under section 17 of the Children Act 1989. This should be automatic and apply across every local authority in England and Wales.

Support for kinship carers

Often, the parent in prison will look to family and friends to take on the care of the child. Sometimes, where they know a custodial sentence is likely, they may have time to put arrangements in place before their sentencing hearing. However, even if they have an indication of the type of sentence they might receive, other questions remain such as how long they will be sentenced to prison for and where they might be placed. There are a number of cases where the individual was not expecting a custodial sentence at all and so attended court with no childcare in place. When a sentence of immediate imprisonment is unexpectedly given, this can be an extremely worrying moment for parents. Family and friends can be a lifeline for families facing situations of this kind.

I have to be grateful to her because if she made a decision to say no, there was nowhere else for them to go. They might have gone to foster care; they might have even been split up so I am really glad that she has taken them on.

Estimates suggest that there may be up to 2000 families in England and Wales where kinship carers are looking after a child whose mother is in prison.⁸⁵ For many families who take on the care of a child, this is a 'life-altering experience', which, among other pressures, can place carers under significant financial strain.⁸⁶ The financial support that kinship carers receive is dependent on the legal status of the relationship between the child and the carer. In instances of parental imprisonment, most care arrangements will be informal as the carer does not have parental responsibility and the child has not been designated as 'looked after' by the local authority. Critically, not all kinship carers receive an allowance and there is no support specifically available for informal kinship carers. While kinship carers who have a Special Guardianship Order or a Child Arrangements Order in place may be eligible for some support, this typically equates to £40 to £110 less than the national minimum received by foster carers.⁸⁷

85 Boswell and Wood, Evaluation of kinship care support service in Holloway prison, 2011.

86 Joan Hunt, Two decades of UK research on kinship care: an overview, 2020. Page 13

87 Kinship, Kinship Care Financial Allowances Survey, June 2021. Page 2

Estimates suggest that there may be up to 2000 families in England and Wales where kinship carers are looking after a child whose mother is in prison.⁸⁸ We have already discussed the distinction between a child who is separated from their parent through imprisonment, and a child who is separated from their parent by the family courts. When a child is removed from their family by the family court and placed with foster carers, there is provision for both the child and family. Notably, foster parents receive statutory support in the form of a foster care allowance to cover the cost of caring for the child.

Kinship carers often experience compounding disadvantage. They are more likely to be older, poorer, have chronic health conditions and live in insecure housing, than any other cohort of parents.⁸⁹ Many describe feeling alone and isolated. Some are grandparents who are trying to manage their own frailties, others have their own children to care for and little income to cover their costs. Taking on the care of a child or vulnerable adult because of someone else's imprisonment can have significant implications for the carer's time, their ability to work, and their finances. Jane, whose mother looked after her children while she was in custody, described how she prioritised their care over her own health and wellbeing:

I was in custody for five years and two weeks. After I got out of custody, my mum was diagnosed with cancer. I think she'd put everybody else's needs before hers. She had to still keep working... and maintain her own relationship with her partner whilst looking after three children. I don't think at any point did anyone say to her "Are you okay? What do we do for you?" Nobody asked mum what support or counselling she might need.

We note the Government's position that informal kinship carers have the same access to means tested child benefit and child tax credits as birth parents.⁹⁰ However, kinship carers play a fundamental role in providing stable and loving care to a vulnerable group of children which often leads to better longer-term outcomes and reduces the number of looked after children in the local authority care system.⁹¹ Furthermore, the lives of children in kinship care are affected by their carers' poverty, meaning the lack of adequate support will likely further compound the experience of disadvantage for children who have a primary carer in prison. Many kinship carers are given little, if any, time to make arrangements for how they will care for or financially support a child (or children) and step in when there is no one else. Given the significant additional burden that kinship carers take on, which is akin to the responsibility of a foster carer, we consider that kinship carers should receive a statutory kinship care allowance in line with foster care allowance.

Recommendation 2.5

Families who take on the care of a child whose parent is in prison should be offered a statutory kinship care allowance in line with foster care allowance. Carers should be signposted to organisations in the community that can offer holistic wrap-around support throughout the prison sentence.

⁸⁸ Boswell and Wood, Evaluation of kinship care support service in Holloway prison, 2011

⁸⁹ Joan Hunt, Two decades of UK research on kinship care: an overview. 2020

⁹⁰ MoJ, Government Response to the Joint Committee on Human Rights Twenty-Second Report of Session 2017–19: The right to family life: children whose mothers are in prison, November 2019. Page 13

⁹¹ Grandparents Plus, Kinship Care: The Opportunity, 2010. Page 11

chapter three

Custody

Introduction

'Family ties and relationships with significant others should be treated as assets by the teams that keep prisoners safe',⁹² yet prisons, and the regimes within them, are often not designed in ways which enable family relationships to be nurtured.

Research in this area has historically focused on how people in prison can be better supported to maintain family ties. Whilst this is important work, families have their own needs that equally need to be recognised. Evidence shows that supportive familial relationships can fundamentally transform the prison experience for those inside and reduce the likelihood of reoffending upon release. However, the families of prisoners are often an afterthought in the management of the prison estate. Significant barriers remain for families who are trying to journey with a relative throughout their time in prison.

Key findings: Impacts of imprisonment on families

Every family that is supporting a family member through imprisonment will have a different experience depending on their relationship with the person inside. Factors such as caregiving needs, finances, the nature of the offence, the length of the sentence, and the category, location, and facilities of the prison will also affect the experience of both the prisoner and their family.

Despite these variations, our research highlighted some common themes regarding the impact of imprisonment on families:

- The first few days of imprisonment are challenging for families
- Families play a key role in supporting the health and wellbeing of people in prison
- Supporting a relative in prison can have negative impacts on the health and wellbeing of family members
- Supporting a relative in prison can have negative impacts on families' finances

Lord Farmer rightly identified family ties as the golden thread in prisoner rehabilitation. However, our research has shown that despite the welcome steps that the Government has taken in response to Lord Farmer's seminal reports (2017; 2019), the specific needs

⁹² Ministry of Justice, *The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, 2017. Page 40

of families are often not adequately recognised or responded to across the prison estate. Indeed, many families feel significant pressure to help their relatives, but they struggle to do so without access to adequate support.

The first few days of imprisonment are challenging for families

The initial stages of imprisonment are particularly challenging for those in custody and the families left behind. Several children described the complex and difficult emotions they experienced when their parent first went to prison:

I was quite upset, angry, confused. I didn't know what was happening.

It was like a burst of sadness.

[I felt] kinda devastated, my mum was sad.

I used to cry in school lots and then when my friends heard about it people were gossiping about it so I just kept it a secret.

The first days and weeks of a relative's custodial sentence can be particularly difficult for families as they worry about their relative's mental health and wellbeing and begin to adjust to life in the community without them. Indeed, people in prison, especially those who have not previously served a custodial sentence, report that the first night can be overwhelming and difficult to adjust to. This is reflected in data on suicides and self-harm in the prison estate. In 2021, one in ten self-inflicted deaths in custody occurred in the first week, whilst 20 per cent took place within the first 30 days.⁹³

Josie, a former prisoner stated:

It was like total shock. It was like being in a dream. I got to the prison, and I just felt heartbroken. I was in shock. I just felt numb that I had been found guilty.

In addition, our research highlighted that families are often put under undue stress waiting to receive an update on the welfare of their relative. Afia, whose son was sentenced to three and a half years in custody stated:

That was honestly agonising that first week. I didn't know where he was, and you just think, oh my God, is he being beaten up?

Whilst most prisons allow prisoners to make one free phone call within the first few days after arrival, this is not always the case. A survey of prisoners undertaken between April 2019 and March 2020 revealed that over half of men (54 per cent) and a third of women (29 per cent) were unable to say that they were offered a free telephone call on their first

⁹³ Gov.UK, Safety in Custody Statistics, 27 January 2022

night in custody, whilst a third of male (30 per cent) and female prisoners (32 per cent) had problems contacting family when they first arrived.⁹⁴ Critically, prisoners must be able to remember key contact information to make a phone call, including the full name, phone number, address and date of birth of the person they wish to speak to. If they cannot, families can be forced to wait weeks until they can communicate with their family member in custody. This lack of contact at the beginning of the sentence is particularly problematic when the person in prison was the primary carer of dependent children.

Anna's story

Anna struggled with her mental health after losing custody of her children. She was later arrested and sentenced to immediate custody for a minor driving offence. Anna was driven around the country for six hours in a prison van without being told where she was or where she was being taken. None of her family or friends knew that she had been sentenced and she had no immediate way of accessing the information she needed to contact them from prison.

When I got to jail, I was saying I need to let my family know where I am, I need to let my friends know, like somebody. They said you can make phone calls and we'll give you one pound credit on your phone but to be able to do that I had to fill out an application and I had to have their full name, their date of birth, their full phone number and their full address and postcode to be able to phone that person and then the prison has to contact that person to ask permission for me to contact them. Before I've got all those full details, I ain't phoning no one. How am I meant to know people's postcodes and full phone numbers and like even surnames? I don't know some of the people I need to contact surnames, I know them as Reverend or Emma.

Whilst HMPPS do operate an online Prisoner Location Service, obtaining prisoner information through this process can be extremely cumbersome for families.⁹⁵ The Farmer Review recommended that key contact details of family and friends are mandatorily requested by prisoner escort services whilst at court and added to their prison file. This should ensure that prison staff, and therefore the person in prison, have access to key information regarding the prisoner's support network from the moment of sentencing.⁹⁶ The Government committed to rolling out this service by the end of January 2020. However, since then, we have heard several accounts of individuals continuing to arrive at prison without the information they need to sustain familial relationships.⁹⁷

Even when families are contacted by their relative on the first night of their sentence, they are often unsure of how the prison regime operates and what information they need to gather to sustain contact in the future. Many searched online for practical information about how and when they could contact or visit their relative and what they could send into prison to ease the transition. However, often the information available, especially on the government website, was found to be either unhelpful or inaccurate. This is especially difficult for families who do not speak English as a first language.⁹⁸ The lack of clear

94 Her Majesty's Inspector of Prisons, Annual Report 2019–2020, October 2020. Page 156

95 Gov.UK, n.d., Find a prisoner

96 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 12

97 Gov.UK, 30 October 2019, Updates on the implementation of recommendations resulting from the Farmer Review

98 Arooj, Faith, Family and Crime, 2018. Page 14: *1.1 deaths per 1000 prisoners year leading up to December 2021 compared to 10 deaths per 100,000 people in UK population for 2020 (most recent data)*

information about what their family member will be going through and how they can best support their relative in prison often compounded anxieties for families. Liz, whose son had been sent to prison for the first time recalled the stress her family experienced as they tried to obtain the right contact details at the beginning of his sentence:

We were reading [information] online which said you get one phone call from them, but it might just cut out. We all came back home waiting for that call and then he called about half past eight in the evening. We were all in a panic and everyone says “Oh you got to write this prisoner number down or you’ll find it really hard to contact him” and in all the panic, we wrote it down wrong.

In response to these challenges, Pact is piloting the development and use of a companion booklet which is sent to the families of people in prison to ensure they have the information they need to navigate the prison regime, sustain contact, and provide support for their relative.

Case study: Pact Gateway Communication Programme

HMPPS has funded Pact, a voluntary sector organisation that supports prisoners and their families, to improve gateway communication between prisons and prisoners’ support networks in the community. The project is being piloted in 5 prisons until September 2022. It is hoped that the resources developed will be extended across the prison estate to help families understand how the regime operates and what their relative will experience.

Pact have developed two key products as part of this project. The first is a ‘Gateway Companion’ booklet that contains information about a prison to help families understand what life will be like for their relative while they are in custody. The booklet clearly explains the prison regime, including healthcare, finances, education, processes associated with release, ways to communicate with a prisoner and how to raise welfare concerns. Prisons are sending booklets directly to families, as well as promoting the link to the booklets online. Pact has produced a template booklet that can be completed with information that is specific to each prison.

A ‘Gateway Companion’ film is also in development which aims to convey the same useful information regarding the prison regime in an accessible way and will be relevant to all prisons. The film will be made available in nine different languages.

The initial stage of the sentence is challenging for both those in prison and their families for a multitude of reasons. The Government is taking welcome steps to strengthen support for prisoners in the early days of their sentences, but this will do little to alleviate the concerns of family members. Subsequently, support is also needed to keep families informed about the welfare of their relative and to provide guidance about how best they can support their family member in custody.

Recommendation 3.1

Every person in prison should be given the opportunity to identify someone as a key point of contact, at the beginning of their sentence. The contracted provider of family services at the prison should provide welfare updates to families throughout the first two weeks, inform them of what to expect next and signpost them to helpful online information.

Families' role in supporting the health and wellbeing of people in prison

Assessment, Care in Custody, and Teamwork (ACCT) documents

It is not just in the early days of the sentence that families offer critical support to people in prison. Where circumstances allow and when the justice system functions well, families play a significant role in supporting the health and wellbeing needs of relatives throughout their time in custody. A survey carried out in the year to March 2020 revealed that 71 per cent of female prisoners and 47 per cent of male prisoners reported having mental health problems.⁹⁹ Alarming, the rates of self-harm in the adult male estate reached an all-time high in 2019–20.¹⁰⁰ Mental health issues across the estate have been exacerbated during Covid-19 as restrictions meant that people in prison had to spend up to 23 hours a day in their cells¹⁰¹ whilst healthcare services were curtailed which increased the waiting times for appointments with mental health practitioners.¹⁰² The emotional support that families provide to people in prison serves as a protective factor for prisoners' mental health, and therefore was more crucial than ever during lockdown.

When a prisoner is at risk of self-harm or suicide, an Assessment, Care in Custody and Teamwork (ACCT) document should be opened so that a plan can be made to provide care to reduce the risk of harm. The Farmer Review recommended that families should be able to request the opening of an ACCT document and be informed whether any action is taken in response or if an ACCT document is not opened after a risk-assessment has taken place.¹⁰³ We welcome the introduction of ACCT v6 in July 2021 which recognised that appropriate external sources of support should be engaged in the ACCT process, if the person in prison gives their consent.¹⁰⁴ Families are likely to be best placed to identify changes in mood, provide insights into past behaviour, and inform the multi-disciplinary care team of any approaches that have helped previously in similar situations. Family involvement in the ACCT process is likely to play a key role in safeguarding prisoners. Prison staff therefore must have sufficient training to know how best to engage families in this process. Training must also emphasise the importance of joined-up working between

99 Her Majesty's Inspector of Prisons, Annual Report 2019-2020, October 2020. Page 159

100 Her Majesty's Inspector of Prisons, Annual Report 2019-2020, October 2020. Page 15

101 BBC, 20th October 2020, Prisoners locked up for 23 hours due to Covid rules is 'dangerous'

102 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 8

103 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 13

104 HMPPS, ACCT: User guidance

prison staff and voluntary sector organisations to enable families to be supported whilst an ACCT document is open. Given that this will be an extremely worrying and difficult time for families, support for families during this time is critical.

Gateway Communication System

Although positive commitments have been made to engage external sources of support, one former prisoner questioned the effectiveness of the ACCT process and in-prison mental health support more broadly.

If you ask for help in a mental health situation, you just got put on ACCT, that was it. There was no support. They would just watch you every 15 minutes to check you haven't killed yourself. The mental health team didn't kick in until 12 weeks into your sentence so anyone who's on a short sentence wouldn't have had any mental health support at all.

Inadequate responses to mental health challenges not only put people in prison at risk, but they also place additional pressure on the cohort of people outside the prison gate who are supporting them. It is, therefore, essential that there are adequate channels of communication between families and prison staff to ensure families feel confident that any welfare concerns they raise will be swiftly acted upon in an appropriate manner.

Lord Farmer recommended that *'each prison should establish a clear, auditable and responsive 'gateway' communication system for families and significant others – a dedicated phone line that is listened to and acted upon'* as part of their Performance Agreement.¹⁰⁵ While the majority of prisons have a safer custody line in place, our research revealed that many do not publicly advertise it online. To help families find the information they need, Pact has collated all safer custody information in one online portal.

Case study: Pact online portal

Pact has developed an online portal for families who may have concerns about their relative in custody. The portal sits on the Prisoners' Families Helpline website and provides the safer custody and switchboard number for every prison establishment. An online contact form is also available for families to complete which is sent directly to the safer custody functional email box for the relevant prison.

¹⁰⁵ Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 13

Furthermore, our research highlighted that many families do not receive an adequate response when they raise a welfare concern. As families ring this number to report urgent concerns about a prisoner's wellbeing, not knowing when, or even if, the concern will be acted upon is a great source of worry for many families:

I rang trying to report concerns for his welfare and nobody answered the phone. I rang back through the main switchboard and she said "You need to speak to them" and I said "I'm trying and nobody's answering, it's the welfare hotline somebody should be picking up". "Oh well I'll take your number" but nobody ever phoned me back. He could have been hanging.

Our consultation with stakeholders also emphasised that families often do not feel that their concerns are being adequately logged. Accordingly, we heard accounts of families taking it upon themselves to record the time and date of the call or choosing to send an email to ensure they have an electronic record of the action they have taken to safeguard their relative. It is unacceptable that many families feel that there is a lack of accountability regarding who is responsible for logging and responding to welfare concerns in prisons across the estate.

Recommendation 3.2

Safer custody lines should be monitored by HMPPS staff 24 hours a day, seven days a week to enable families to flag welfare concerns. Calls must be logged and responded to in a timely manner.

The health and wellbeing impacts of supporting a relative through imprisonment

Some families go to great lengths to support their relative in prison, often at the expense of their own health and emotional well-being.

I feel like I've been pulled in all different directions because you're stretched mentally and physically, I suppose, and financially.

I think about little else. My brain's constantly thinking, who can I write to? What can I do to help? What's gonna happen to him if he doesn't ring me by 12? Is he alright? Has he been beaten up? I don't sleep very much. I started drinking quite a bit because I'm just trying to numb myself. I know it's stupid but it's just taken over my life.

Indeed, our research highlighted that many family members take medication to enable them to cope with the emotional upheaval of the imprisonment, as well as the stresses of supporting an individual through a custodial sentence.

I was off work for nine months and I'm on antidepressants, and I'm having counselling. And now I've reduced my hours at work because I'm struggling to support my children's needs as well.

I was consumed by the emotions that I had. I phoned the doctor and asked for antidepressants. I wasn't sleeping. I wasn't eating. I couldn't communicate properly with my children, my family. I just looked ill. My family were worried about me. I wasn't in a good place at all.

Adam outlined how the emotional toll of supporting his son through the criminal justice system has eroded his self-confidence.

I was a sales rep for 30 odd years so I used to drive for a living but my confidence has gone downhill over the last 18 months... I used to think nothing of driving to London and back in a day from work but now, I dread it. So it's been hard. I must be going through what hundreds of other people go through but it's been really hard over the last two and a half years.

For many individuals, supporting a close family member through their prison sentence is comparable to bereavement, as they grieve the life experiences they have missed out on. However, it is important to note that some family members may welcome a custodial sentence. One participant, whose siblings were frequently in and out of prison, described how she was often relieved when they were sent to prison as it enabled her to have respite from caring for them and managing their challenging behaviour:

A few times when they went into prison, I was kind of relieved that I knew where they were and somebody had a grasp on them because I knew their lives were spiralling out of control. There just needs to be some acknowledgement of what families do.

We recognise that familial relationships are complex and that some family members may not need or desire, help yet regardless of the individual circumstance, many find this experience extremely difficult and isolating. Families frequently expressed that they would have benefitted from support but often they did not know what was available or where to find it.

Only a handful of non-statutory organisations are aware of the presence and needs of families affected by imprisonment and those who look after a child whose parent is in prison. This group of largely voluntary sector organisations work tirelessly, often with limited resources, to identify these individuals and provide support. For those who do benefit, many spoke of the impact this had on their mental health and wellbeing during their relative's sentence. In addition, as we will discuss later, co-locating support services within the prison estate could help build trust, increase engagement with formalised support, and ultimately improve health outcomes for families of people in prison.

Routes2Change

Routes2Change is an exemplar project, testing and modelling how to implement Lord Farmer's recommendations in practice, in a way that is scalable and replicable. The project seeks to embed a whole-prison 'Family and Relationships First' culture into the regime and staff behaviours.

Working with family members and significant others in the community and in custody, Routes2Change offers every prisoner a Relationships/Family Assessment during their induction with a Pact Family Resettlement practitioner. This is followed by the offer of support in developing a Family/Good Relationships Care Plan, involving one-to-one casework support, befriending support for family members in the community, family group conferencing and mediation, therapeutic play support and advocacy for children, and post release support.

The project has a multi disciplinary advisory board with involvement of MOPAC, the local authority, probation and prison governors. It has recently developed an information sharing partnership agreement with London Probation.

Take up of the programme, which is entirely voluntary, has been between 45–50% of the whole prison population at HMP Brixton during the initial two year pilot phase. The programme is now rolling out to HMP/YOI Isis.

The role of the voluntary sector in supporting families involved in the criminal justice system

A 2021 Clinks report highlighted that eleven voluntary sector organisations are commissioned by the Ministry of Justice to deliver family work across the prison estate, alongside other organisations who are predominantly funded by charitable trusts and foundations.¹⁰⁶ Subsequently, there is significant variation in the levels of funding that organisations can access and therefore the breadth and level of support on offer for families.

Clinks, a charity which supports these organisations, has called for the Government to provide sufficient funding which recognises the 'real cost' of family work to ensure services can be delivered effectively.¹⁰⁷ To provide context, 2019 research revealed that 57 per cent of organisations are supporting a greater number of individuals and for the last three years, service user need has become more complex (72 per cent) and more urgent (71 per cent).¹⁰⁸ Despite the fact that voluntary sector organisations working within the criminal justice system are facing growing and more challenging user needs. Research undertaken by Clinks shows that the budget for family work across the prison estate has remained at £5 million a year for the last decade (this equated to £3.8 million in real terms in 2021).¹⁰⁹ Accordingly, the budget for family services is less than 5 per cent of the budget allocated to prison education, despite the Farmer Review identifying family, education and employment as essential to rehabilitation as they bring 'stability and structure to prisoners' lives'.¹¹⁰ Given the crucial work that these organisations do to support families, more investment is needed to ensure they operate sustainably.

106 Clinks, Time to invest in families, September 2021. Page 4

107 Clinks, Time to invest in families, September 2021. Page 5

108 Clinks, The state of the sector, 2019. Page 6: N.b. Survey of specialist criminal justice organisations (n=316) undertaken between May and July 2019.

109 Clinks, Time to invest in families, September 2021. Page 5

110 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017

While beyond the scope of this paper, the CSJ has long championed the role of the voluntary sector as a lifeline for communities across the UK. We consider there is significant work to be done across the breadth of government to ensure that small, local, and specialist voluntary sector organisations remain at the fore of government provision. This requires both sustained funding and commissioning practices that recognise the value of the voluntary sector and specialist organisations in service delivery.

While there are only a small number of charities that provide support for families across the prison estate, there are even fewer charities who provide community-based support for families and children affected by imprisonment. Subsequently, many families who do not come into contact with the prison estate may find it difficult to access emotional and practical help. We consider that there needs to be capacity built into the sector to respond to the specific needs of this cohort.

The financial impacts of supporting a relative through imprisonment

Families are a key source of financial support for the majority of people in prison. We heard stories of families having to sell or downsize their house, undertake additional work and spend their life-savings to pay for legal fees for appeals, cover housing costs, or care for the prisoner's offspring throughout the duration of the sentence. Critically, providing this level of help can be all-consuming, affecting relationships with the wider family in the community.

Josie explained the impact that supporting her son has had on her finances:

My finances have taken a hit. I put money on the phone [so he can call me], stamps as well, and then money to get back and forth to the actual prison to visit him. It all adds up.

Our research highlighted that many families experience a significant reduction in their household income when a family member is sent to prison. Particular financial strain, and the stress and anxiety that is associated with it, is felt by families where the individual sentenced was the primary earner or contributed towards the cost of rent or household bills.

[My son] used to live with me. He had a good job and he used to help me out financially every week. I'm on my own and I only work part time cleaning. As long as I keep up with my rent and pay a little bit off my rent arrears, that's my main priority. There's nothing left to live off but as long as I've got my home.

One family member explained how she has had to take on an additional job to cover the costs of living due to the loss of income from her partner whilst he is in prison:

So before two of us were paying the mortgage, now it's just me paying. I'm working seven days a week because I've had to get another job in a pub to be able to buy food shopping.

Although there are paid employment opportunities for prisoners within the estate, our research highlighted that the average salary does not cover the costs associated with prison life such as phone calls, food from the canteen and toiletries. In addition, all essential employment was stopped in March 2020 due to Covid-19 and the introduction of social distancing rules further limited the number of prisoners that could earn money through work. These factors made people in prison more reliant on external support which increased the financial burden on families.

Supporting prisoner-family contact

Telephone contact

Research suggests that 45 per cent of prisoners lose contact with their families whilst in prison.¹¹¹ Telephone calls therefore are an essential way that family ties can be maintained which is especially important for individuals with young children.¹¹² HMPPS began the roll-out of in-cell telephony in 2018¹¹³ and significant and welcome strides have been made during the Covid pandemic.

Despite this, as of December 2021, 24 HMPPS prisons in the adult male estate (12 closed and 12 open prisons) and two HMPPS prisons in the adult female estate did not have telephones in every cell, nor had the roll-out of in-cell telephony begun in these establishments.¹¹⁴ Where in-cell telephony is unavailable, prisoners must queue up to use the limited number of phones available on the landing-wing which means that conversations lack privacy and are often cut short. Joy explained the difficulties she encountered whilst communicating with family members during her time in custody.

My mum was struggling when [my offence] all came out in the newspapers. I'm ringing my mum and she's really, really emotional and I don't know how to deal with that and I've got women standing around me listening to what I'm saying to my mum so there's probably a lack of privacy when you're dealing with sensitive issues relating to family.

111 Department for Business, Innovation and Skills, 2014, National Offender Management Service (NOMS), Policis, Kingston University and Toynbee Hall, Parenting and Relationship Support Programmes for Offenders and Their Families

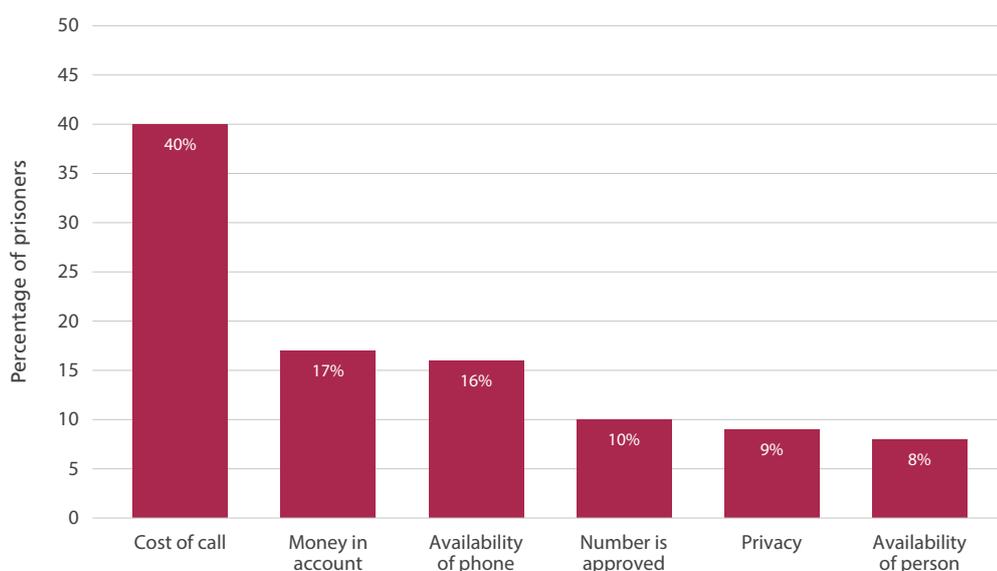
112 Ministry of Justice, Evaluation of digital technology in prisons, 2020. Page 4

113 Gov.UK, 28 December 2020, In-cell phones for more prisons in drive to cut crime

114 CSJ FOI request, December 2021

Our research consistently showed that communication between people in prison and their families is more regular and of a higher quality when they have access to in-cell telephones. A recent evaluation of digital technology in prisons also found that staff reported that illicit phone use, which is often driven by a desire to stay connected to family whilst in custody, was likely to have been reduced by access to in-cell telephones.¹¹⁵ Despite the benefits associated with in-cell telephony, the cost of a call remains a key barrier which limits family communication (Figure 1).

Figure 1: Most important reason in determining how often prisoners make telephone calls across 11 prisons (n = 719)¹¹⁶



Source: Ministry of Justice, Evaluation of digital technology in prisons, 2020

As we have discussed, prisoners typically pay for telephone calls using money sent in by family or their earnings from employment within the prison.¹¹⁷ Recent FOI data from the Ministry of Justice revealed that the average cost of a call in a private prison during the week to a UK fixed line is 3.73 pence per minute and 8.85 pence per minute to a UK mobile.¹¹⁸ Whilst this does not exceed the average cost of a call in the UK, people in prison are unable to access call packages which allow longer phone calls to be made at a cheaper rate. Subsequently, many low-income families are put under significant financial pressure to communicate with their relative on a regular basis.

Recommendation 3.3

HMPPS should ensure that the cost of calls remain affordable for families and as far as is possible, are standardised across the prison estate.

¹¹⁵ Ministry of Justice, Evaluation of digital technology in prisons, 2020. Page 3

¹¹⁶ MoJ, 2020, Evaluation of digital technology in prisons, Page 18

¹¹⁷ Her Majesty's Inspector of Prisons, Annual Report 2019-2020, October 2020. Page 5

¹¹⁸ FOI data – December 2021

Digital solutions help enable family contact

HMPPS stopped all prison visits on 24th March 2020 to limit the spread of Covid-19 throughout the estate.¹¹⁹ This decision was based on sound public health advice which effectively contained the spread of the virus. Modelling by HMPPS and Public Health England based on the worst-case scenario without regime changes estimated that 77,800 prisoners would be infected, leading to 2700 deaths.¹²⁰ In reality, as of 30th December 2021, 177 prisoners have died having tested positive for Covid-19 within 28 days of death.¹²¹ Clearly, restrictions were necessary to protect the health of prisoners and staff. However, the families of prisoners were unable to see their relative for over a year throughout the pandemic. Subsequently, criticisms that visit restrictions breach Article 8 of the Human Rights Act 1998, which protects the right to family life, have been levied at the Ministry of Justice.¹²²

To mitigate this, technological solutions have increasingly been used to facilitate interaction and maintain connections between prisoners and their families. Lord Farmer's 2017 review paved the way for video calling technology to be installed across the estate to enable families who could not visit their relative in custody frequently or at all due to ill-health, distance or other factors.¹²³ In response to the pandemic, the roll-out of video calling technology was expedited and made universally available across the estate. As of November 2021, people in prison can have one free 30-minute video call with up to four people a month during the Coronavirus pandemic.¹²⁴ We recognise the steps that the Government has taken to enable families to maintain contact through video technology and we welcome the commitments that have been made to implement long-term video calling options across the estate.¹²⁵ Indeed, our research shows that many families have found this service a useful tool of connection, but video calls cannot and should not replace face-to-face visits:

I think face to face visits are the best. The [video calls] at the first prison were good because he was in a room on his own and he could talk to me freely and be himself but at the new prison, he's in a room with lots of other people and he wears headphones. There's lots of people shouting and it's really hard to hear.

Particular challenges also arise for families with young children due to the security functionality of the application.¹²⁶ Eileen, who is caring for her two grandchildren whilst her son is in custody stated:

I hate them. I absolutely hate them. Only because the kids are so small. My grandson is four and my granddaughter has just turned two. We've got to hold the little screen cos you can only do them on an app so you can't do it on a computer where you can see properly

119 The Guardian, Ban on prison visits in England and Wales breaches children's rights, says lawyers, 31 July 2020.

120 HMPPS and PHE, Briefing paper – interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England, 24 April 2020. Page 6

121 Ministry of Justice, Prison and Probation Service COVID-19 Summary tables, 10 December 2021

122 Gov.UK, 1998, Human Rights Act 1998

123 Her Majesty's Inspector of Prisons, Annual Report 2019–2020, October 2020. Page 14

124 Gov.UK, 27 May 2020, Secure video calls with prisoners

125 MoJ, Prisons Strategy White Paper, December 2021. Page 26

126 It should be noted that the tender to provide video communications across the prison estate was won by a different company in 2021.

and it's difficult trying to keep them in the screen and when half the head disappears out, it cuts off. And if anything comes across the screen, it cuts off. It's like trying to herd cats keeping them together to talk cos they're desperate to see him. I mean, if it was, say a girlfriend/boyfriend thing, I'm sure it's perfectly adequate but for children, it's just not great.

Other digital solutions, such as Prison Voicemail, have been instrumental in improving communication between families and people in prison. This service enables both parties to leave voicemail messages for each other which can be responded to at a time that works for them. The flexibility of this service is particularly useful for family members in full-time employment who often miss calls from their relative in prison. Research shows that 96 per cent of families that use prison voicemail (n=169) report having better contact with their relative in prison whilst 93 per cent state that it has improved their relationship.¹²⁷ This additional method of communication helps alleviate any concerns that children or family members may have about the person in prison, enables them to share updates and involve their relative in family rituals. Indeed, 97 per cent of families stated that it made them feel better and made the sentence easier to bear.¹²⁸ This service is a lifeline for families and prisoners as it provides a sense of normality and maintains a sense of connection despite being physically apart.

For many family members, prison visits and calls will be a lifeline. However, the prison environment is not always a welcome place for children, and the limitations of digital technology across the estate mean that calls or virtual interactions are not always possible or satisfactory. In recognition of the challenges posed to children and families affected by imprisonment, Storybook Dads offers a range of services to maintain and strengthen familial relationships.

Case study: Storybook Dads

Storybook Dads is a charity based in 100 prisons across the male and female estate. The charity enables fathers and mothers to record themselves reading a bedtime story to their child. These recordings, which can be either audio or visual, are edited by a cohort of prisoners who have been trained by charity staff to use software to remove mistakes and background noises. Music and sound effects are also added to enhance the stories. The CD or DVD is then sent to the child which helps to show that their parent loves and misses them and is trying to play an active role in their life.

During Covid-19, the charity developed activity packs for both the child and the parent to share personal reflections about their interests and lives which helped maintain critical contact when prison visits had been stopped. They also enabled families to record personal messages and send in videos of home life. This content was screened by the charity and developed into an edited video which people in prison could play in their cells. All of these services play a critical role in ensuring families stay connected during imprisonment.

The services Storybook Dads provide strengthens familial relationships and allows parents to play an active part in their child's life.

¹²⁷ Smith, L. Prison Voicemail: An innovative method of communicating to maintain and improve family ties. In: University of Lincoln Post-Graduate Research Showcase, 20th February 2019, Lincoln

¹²⁸ Ibid

Face to face visits

Research from the Ministry of Justice shows that prisoners who receive visits from a family member are 39 per cent less likely to reoffend than prisoners who do not.¹²⁹ Despite the evidence supporting the value of visits, significant barriers remain that complicate the process for families.

Booking systems are antiquated and difficult to use

The method of booking visits varies from prison to prison. CSJ research reveals that 72 prisons in the adult estate only have a telephone booking system. Family members raised concerns about having to spend a significant amount of time waiting for the phone to be answered. Our consultation with stakeholders revealed that booking lines are often only staffed by one person which makes it difficult to manage the high volume of calls. Indeed, the booking process is especially challenging for individuals in full-time employment as most lines are only open for a few hours within the working day, often between 9am and 12pm. Whilst 21 prisons allow family and friends to book visits via telephone and email, only two prisons, HMP Eastwood Park and HMP Stafford, currently have an operational online booking system.

In 23 prisons, prisoners must book their own visits internally. To do this, they must submit the name, address and date of birth of their visitors. This process is especially difficult to navigate for neurodiverse prisoners who receive little to no support. Critically, if personal information about the visitors is recorded incorrectly, family members can be denied entry to the prison. Indeed, the fear of a visit not going ahead causes a great amount of stress amongst prisoners' support networks:

He's got dyslexia and his short-term memory isn't great and he put my wrong date of birth so then there was an issue with security so he's ringing and ringing trying to speak to security about it so then my heart sank. God, you know, we're gonna either not make this visit or we'll be late now. My worst fear was that they weren't going to let us in so I thought this would be the fourth visit now that won't go ahead so that was all very stressful.

Recommendation 3.4

All prisons across the estate should join the centralised online booking system run by HMPPS to enable social visits to be booked at a time that suits families. A telephone booking line should always remain operational to assist those who are digitally excluded.

¹²⁹ May C., Sharma N. and Stewart D., Factors linked to reoffending: a one-year follow-up of prisoners who took part in the Resettlement Surveys 2001, 2003 and 2004. London: Ministry of Justice, 2008

The role of visitors' centres

Many prisons have a designated visitors' centre, run by a voluntary sector organisation, which acts as a central hub for specialist trained staff and volunteers to provide information, advocacy, and support services to families.

Case study: POPS Visitors' Centre Service

POPS manages ten prison Visitors' Centres across the North-West and Yorkshire and Humberside. These centres are a dedicated space where families can sit down, have refreshments, use the crèche facilities, and access emotional and practical support.

Trained staff and voluntary workers offer families a warm welcome and provide a range of support before and after their visit, including:

- Offering practical information and advice e.g. travel costs, property issues, obtaining identification documents
- Signposting families to help in the community e.g. finance, debt, housing, mental health, domestic violence, childcare, parenting
- Liaising with Safer Custody and other teams within the prison regarding safety concerns
- Providing toys and activities for children

Crucially, the centre aims to connect prisoners and their families to longer-term, localised support to aid resettlement.

There is some evidence to suggest that a purpose-built visitors' centre, such as those provided by POPS, can be a valuable asset which decreases stress for prison visitors and encourages them to positively engage with support services.^{130,131} Freedom of Information data from the Ministry of Justice shows that 11 HMPPS prisons, and one privately managed prison in the adult male estate, do not have a visitor centre, whilst two HMPPS prisons in the adult female estate also lack these facilities.¹³² We recognise that there is no legal requirement for prisons to have a visitors' centre and that some older prison buildings are constrained by their structure and size. However, given the critical role they play in offering information, as well as practical and emotional help, we recommend that all prisons must have a visitors' centre which acts as a hub of holistic support for families.

Recommendation 3.5

Every prison should have a visitors' centre which signposts families to services that can help and acts as hub of multi-disciplinary support.

¹³⁰ National Offender Management Service, Providing Visits and Services to Visitors, 2011

¹³¹ Families Outside, Prison Visitors' Centres: An ongoing debate, 2010

¹³² MoJ, FOI request, 16 December 2021

Searches can be intrusive and dehumanising

All visitors must consent to being searched upon arrival to ensure contraband is not being brought into prison. The type of search depends on the level of risk posed by the individual which is determined by the prison governor and the category of the prison.¹³³ Government guidance recognises that '*searches, especially full searches, can be embarrassing and difficult experiences*',¹³⁴ yet '*they are not intended to be intrusive*'.¹³⁵ It outlines that '*visitors must be treated courteously and with respect at all times, striking a sensible balance between this requirement and those relating to the maintenance of security, good order and discipline and the prevention of crime*'.¹³⁶

Despite this, our research uncovered evidence that family members of prisoners often feel criminalised when visiting prison. This finding echoes research (Comfort, 2008) which highlighted that visitors become '*quasi-inmates*' as they '*convert from legally free people into imprisoned bodies*' when inside the prison gate.¹³⁷ Whilst most families appreciated that prison officers are responsible for the maintenance of order and ensuring that visitors are not in possession of prohibited items, many felt that they carried out searches and interacted with visitors in a degrading and stigmatising manner. Certainly, the use of sniffer dogs contributes to a climate of fear, especially for vulnerable visitors such as young children.

One family member stated:

They took us in one at a time, female guard, you know, she patted us all down to make sure you're not carrying any contraband. When you go around the corner and have to sit in a chair, and they bring the sniffer dogs go around you. It's just bloody degrading, really, I was not impressed. I understand that they got to have these processes in place but a bit of forewarning wouldn't have gone amiss.

When asked what it was like visiting their family member in prison, several children described how fear permeated their experience:

It was kind of scary because they have to search you and all that before you go visit them.

Um, scary because there was police guards and that there and dogs.

I was quite scared because there's a big dog that sniffs you.

Our research highlighted that body scanners can significantly improve the experience for families. Tyra, who visited her partner in prison with her elderly mother-in-law explained how scanners made the searching process more humane:

133 National Security Framework, Searching of the Person, July 2016. Page 7

134 Ibid, Page 11

135 Ibid, Page 30

136 Gov.UK, 31 January 2019, Managing prison visits: PSI 16/2011

137 Comfort, M. Doing Time Together: Love and Family in the Shadow of the Prison. Chicago. The University of Chicago Press, 2008. Page 21

They were more intrusive there because in the first prison he went to, they had a scanner that you went through. In the second prison, you were searched, they put their hand under your bra and down your pants... I was talking about this with my mother-in-law who is in her 70s and she said, "It was just awful having somebody put their hands under my bra, right round and down my pants." She said it was really demeaning.

Individuals who are disabled or who belong to a marginalised group are likely to be more worried about the impacts of intrusive searching practices. Indeed, research has highlighted that Muslim families report finding the searching process particularly degrading.¹³⁸ Lord Farmer recommended that visit security checks should be carried out with a 'customer service mentality' in the style of 'airport security checks', yet our research highlights that intrusive searching practices remain widespread across the prison estate.¹³⁹

Recommendation 3.6

Prison searches are essential to maintain security across the estate. However, prisons should ensure searches are conducted in a respectful manner in the style of airport security.

Many families must travel significant distance to prisons

Another barrier to sustaining familial connections is the distance many visitors have to travel to visit their relative in prison. Melanie, whose son is currently serving a custodial sentence explained:

I can't imagine the amount of mileage we have done visiting him all over the country... we would set out in the morning at nine o'clock. It would take us three hours to get there. We'd be hanging around for two hours to get in. The visit was about an hour and a half. You'd come out, drive all the way home. We wouldn't get home till eight o'clock, so that was like a whole day. At the time, we were working full time, we only had weekends off and that would be a whole day of the weekend, you know, we would probably visit once a fortnight.

The Farmer Review found that women are held, on average, 63 miles from their homes, with a significant number held more than 100 miles from their home,¹⁴⁰ compared to an average of 50 miles for men.¹⁴¹ There are now no remand centres for women in London due to the closure of HMP and YOI Holloway, meaning families must now travel much further to maintain family ties.¹⁴² The further away an individual is imprisoned from their

138 Arooj, Faith, Family and Crime, 2018. Page 14

139 Ministry of Justice, The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime, 2017. Page 83

140 Ministry of Justice, Supporting Data Tables for the Female Offender Strategy, Table 5.1a, 2018

141 Written Question, House of Commons, 7 January 2010, C548W

142 Her Majesty's Inspector of Prisons, Annual Report 2019–2020, October 2020. Page 9

family, the less likely it is that they will receive frequent visits. This impedes the ability of prisoners to be primary carers and makes it more challenging for them to play an active role in family life. This is particularly problematic for mothers with dependent children.

Not only do these distances make it difficult for meaningful relationships to be sustained, they also place a significant financial burden on the individuals that wish to support prisoners. Visits typically last one-hour, meaning that prisoners and their families often have high-expectations, making them high-pressured and intense interactions. It is understandable that some feel that *'shorter visits are often not considered to be worth the effort and costs involved.'*¹⁴³ Several children who participated in our research highlighted this:

It would be a very long drive there so by the time we got there and back it would be night-time and really, we would just sit there and there was nothing, we would just sit at tables. I was glad to see him. I wish I could go up to him and hug him and say how much I loved him, when all I could really do was sit in a chair and do nothing.

Furthermore, our research showed that visits are often cancelled at short-notice, if prisoners are relocated or have their Incentive and Earned Privileges (IEP) status downgraded, which can be financially costly and extremely distressing for prisoners and their families. One mother explained how she was unable to visit her son for the first three months he was in prison due to having several visits cancelled:

They cancelled three visits while he was in [prison]. One was their error, and there was another one they cancelled because they moved him wings, so again it was their issue, and it was last minute again. [Each time] it's me having to tell him... We were due to go and visit him on the Saturday which was the third visit now that we'd arranged and he rang on the Wednesday in a really distressed state saying "I think they're going to transfer me." And he was absolutely distraught. He said "They're going to move me [to a different prison] tomorrow but I'm not going, I'm not losing this visit. They can move me next week or something but I'm not going."

Visits linked to Incentives and Earned Privileges (IEP) scheme

The IEP scheme aims to incentivise positive engagement with the prison regime and rehabilitation. Prisoners are categorised according to their behaviour and engagement in prison life.¹⁴⁴ Although every convicted person in prison has a statutory entitlement to one visit every two weeks and at least one weekend visit every four weeks,¹⁴⁵ an individual's IEP status can dictate whether they can access further privileges, including additional, or longer, visits in more pleasant surroundings.¹⁴⁶

143 Ibid, Page 84

144 MoJ, 8 July 2020, Incentives Policy Framework

145 National Offender Management Service, October 2021, Providing Visits and Services to Visitors, Page 7

146 Ibid, Page 13

In some instances, such a reward and punishment model is used with little regard for the needs of children and families or their right to family life. Whilst it is important that this scheme exists to promote positive behaviour and maintain order, in its current form it achieves this at the expense of the ‘forgotten victims’ of crime: children and their families.¹⁴⁷

Louise, a former prisoner, explained the impact that the IEP scheme can have on the wider family outside of the prison gate:

If you're on basic it's usually because you've done something wrong but I don't see that they should punish the children because that is fundamental to their emotional wellbeing. Why should they be affected? If it was for Joe Bloggs, your mate, your whoever to come and see you, I can understand that but actually, I think that causes more of a hindrance and it harms the children more. I've seen it first-hand how some of these ladies that go onto basic and then have basic for months and months and months. They're in a real spiral of negative behaviour so what does that mean? The children then suffer in the long term.

Furthermore, there is some evidence to suggest that the IEP scheme does not encourage good behaviour.¹⁴⁸ Data from the HM Inspectorate of Prisons for England and Wales Annual Report for 2019–20 revealed that two thirds of male prisoners (67 per cent) and half of female prisoners (47 per cent) felt that the rewards and incentives offered did not encourage good behaviour.¹⁴⁹ Once this has been taken into account, alongside the clear evidence that visits decrease the likelihood of reoffending, there is a strong case for not linking visits, from family members, to the IEP scheme.

In addition, research (Lammy, 2017) raises concerns that black, Asian and minority ethnic families who have a relative in custody may be disproportionately affected by the IEP scheme. Prison staff make decisions about whether to upgrade, or indeed downgrade, a prisoner's status which affects their ability to access additional visits. Data shows that 35 per cent and 38 per cent of Black, Asian and Minority Ethnic (BAME) adult male and female prisoners regard the IEP scheme as fair, compared to 44 per cent and 59 per cent of white adult male and female prisoners respectively.¹⁵⁰ Alarming, racial bias amongst prison staff may impact the number of and type of visits that prisoners are able to have.

We acknowledge the Government's commitment to increasing the fairness of the IEP system.¹⁵¹ However, the implementation of incentives and privileges varies significantly across the estate which can negatively impact children and families. Subsequently, we consider that visits from family members must not be linked to the IEP scheme.

147 Light, R. and Campbell, B., 2007. Prisoners' families: still forgotten victims?. *Journal of social welfare and family law*, 28(3–4), pp.297–308

148 Her Majesty's Inspector of Prisons, Annual Report 2019–2020, October 2020. Page 160

149 Ibid, 160

150 Gov.UK, Lammy Review: final report, 8 September 2017. Page 51

151 MoJ, Incentives Policy Framework, 8 July 2020. Page 21

Recommendation 3.7

Children and families should not be punished for the behaviour of their relative in prison. Visits from family members, therefore, should not be linked to the Incentives and Earned Privileges (IEP) scheme for any adult prisoner.

Family days allow prisoners to be 'active parents'

Family days enable children to interact with their parent in prison, for an extended period of time, in a more relaxed environment than typical visits. These visits play a key role in enabling family ties to be maintained as our research highlighted that children often find it difficult to engage with their parent in the unfamiliar and restrictive setting of the prison visits hall. Serena, whose father is serving a 5-year custodial sentence for drug offences recalled:

[Visits made me feel] happier but it was still kind of awkward because I wasn't seeing him in the comfort of my home. I don't think I liked it as much as when he was there.

Many families also reported that the attitude and behaviour of prison staff during family days helped to put their children at ease. We heard several accounts of staff in the female estate wearing civilian clothes instead of uniforms and interacting with the wider family in a friendly manner – all of which helped to make the visit more enjoyable and less stigmatising for the family.

We welcome the policy framework which ensures that Governors do not include access to family days as part of their local incentive policy.¹⁵² Eligibility for extended visits, such as family days, is determined by local policy and some prisons do allow grandparents and grandchildren to access them. However, families with young children are typically prioritised for these visits. Furthermore, we heard reports that prison staff often repeatedly grant the opportunity to participate in family days to a particular cohort of prisoners, failing to allocate them evenly amongst the prison population. Given their considerable value, we consider they should be open to all people in prison, including stepparents and grandparents, as well as families without young children.

Recommendation 3.8

Prison governors should ensure that all people in prison, for example stepparents and grandparents, have equal access to family days given how important they are for maintaining and strengthening familial relationships.

¹⁵² Ministry of Justice, *The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, 2017. Page 12

chapter four

Release

Introduction

Release from prison brings with it many mixed emotions. While it can feel like the end of a long road for both prisoners and their families, it is not always an exclusively positive experience. Some families will be excited by the prospect of resettlement, yet many have concerns that their relative will struggle to navigate and find purpose in a world that may have changed significantly since they were sentenced. Indeed, this period is often complex and challenging. The process of re-establishing family relationships and routines outside of the prison gate is particularly difficult when families are not engaged in release planning, especially when prison leavers have dependent children or are in recovery from addiction. This difficulty is only aggravated by the lack of external support that families receive.

It should be incumbent on the system to equip and support the families of prisoners through the process of resettlement. Not only is this essential for the future wellbeing and life-chances of families and prisoners, but it would also play a vital role in reducing the rate of reoffending which stood at 32 per cent, measured after one year, for adults released from custody or starting court orders between January and March 2020.¹⁵³

Key findings

Our research highlighted three major themes in relation to the experience of release for families:

- the period leading up to and after release is associated with complex emotions
- most families expressed a desire to be more involved in resettlement planning
- release poses short and long-term challenges which impact families and children

Resettlement planning must begin at the earliest opportunity and, where possible, involve families. For people leaving prison, the support of family and friends is, in most cases, essential to their successful reintegration back into society.

Critically, however, families must also be supported in, what is often for them, a highly emotive and potentially stressful period in their journey through the criminal justice system.

153 Ministry of Justice, Proven reoffending statistics quarterly bulletin, January to March 2020, 27 January 2022

Complex emotions are associated with release for families

Unsurprisingly, the period leading up to release is a time of anticipation and even excitement for many families as they await their relative's return to the community, and for some, the family home. However, not all families anticipate release in the same way. It is important to note that families who have not retained contact with their relative in prison, either due to the nature of the offence or personal preference, are likely to find this period difficult as they worry about whether unsolicited contact will be made. Although beyond the scope of this paper, it must be acknowledged that this cohort has a distinct, but equally valid, set of concerns regarding release.

Our research highlighted that some prisoners and their families expressed feelings of apprehension which stem from the many unknowns surrounding what life will be like after prison.

I think I'll be frightened, quite scared, really about it all because it's like, how's he gonna live? You know, who is gonna employ him? Nobody will employ him now. He said he's changed and he's more mature now and he'd never do some of the things that he did before but you think, it's never tested, is it? Because he's never had to fend for himself before.

Partners and extended family members of prisoners who have been caring for children alone during the sentence welcomed the prospect of sharing the caregiving once the sentence has come to an end, although some expressed anxiety about how the prisoner will cope with parenting or how their child will react when they are reunited with their parent. One child whose father has recently completed his sentence described how her feelings towards him have changed since his release from prison:

I mostly see him when my brother's around cos I don't really like speaking to him now.

The consequences of crime and punishment for children of prisoners can be devastating. For some, their relationship with their parent will never be the same following a prison sentence. This was the case for Jaden.

Jaden's story

Jaden is 13 years old. His father has been in and out of prison for violent offences for most of his life. Although his father maintained contact with Jaden while he was in prison, he has failed to sustain the relationship since he has been released.

Jaden feels that he has been abandoned by his father. As a result, his behaviour has deteriorated and he now has trouble controlling his anger. He also finds it difficult to tell his friends and teachers how he is feeling.

Release is particularly complex for the families of individuals who are serving long custodial sentences. Several children expressed how they find it difficult to deal with the lengthy period of separation from their parent. Joe, a 14-year-old boy whose father has been given a life sentence for murder stated:

The sentence is [so long], my childhood will be over. He won't be able to see me do the things that I wanted him to see me do. I think it's upsetting it's such a long time until I can actually see him properly.

Throughout the course of this research, we also interviewed several elderly parents who feared that they may not still be alive to see their children released, whilst others worried that their relative will be unable to cope with the extent of change that has taken place since they were sentenced and therefore will struggle to assimilate back into society. Mavis, whose son is serving a lengthy prison sentence stated:

He'll just be completely at sea in the world. He'll come out, he won't have any friends, we might not be alive. You know they don't even use computers. He just won't be up to speed with everything. He won't be in a position to work. He's really bright, he's got a really good brain, he's exceptionally musical and, you know, he's got lots of talents that'll never ever be used or realised. When he comes out, I hope it won't be too late but it'll just be like being dropped from the moon on an alien planet. He just won't have any bearings in the world.

Concerns stemming from the difficulties associated with adjusting to life in the community after prison are equally felt by people who serve shorter sentences. One former prisoner who served a ten-month sentence stated:

I think prison changes you so much and then you go out into a world that hasn't changed, it hasn't caught up with you and trying to fit back into it, you just hit this low. I'd find myself crying all the time, like a real deep dark depression for a good few weeks, probably for about six weeks it lasted, where you just didn't know where you fit in to the world anymore.

Some families expressed concerns that their relative will be ill-equipped for release due to the limited access people in prison have to education, training, and support. Our research highlighted that several participants feared their family member would return to a life of criminality:

How can they move away from a life of crime when they come out? They've got 90 quid in their pocket. They've got nowhere to go. They've got no prospect of a job because they've got a criminal record. They've got no family support. How can they make a go of it in that situation? Nobody could make a go of it in that situation. The best minds in the world wouldn't make a go of it in that situation.

Given the unique challenges that this part of the journey through the criminal justice system presents, it is critical that the person leaving prison is supported in their return to a world that may have changed considerably since their sentence. At the same time, families must be afforded the support they need to cope with the emotional and practical demands of release.

Preparation for release: Family involvement in resettlement planning

The Farmer Review highlights that families are '*significant assets for offender management*' when sentences '*are coming to an end*'.¹⁵⁴ Many families expressed a keen interest in being involved in release planning and wished to know how they can create a more stable environment for their relative when they leave prison. They also wanted to know practical information about employability, licence conditions and the role that statutory services will play in ensuring that resettlement is successful.¹⁵⁵

However, many family members stated that they were not engaged in any way during resettlement planning. Subsequently, families often have to help their relative undertake complex, and often time-intensive tasks, such as finding accommodation or employment, accessing healthcare or arranging benefits, in order to adjust and reintegrate to life in the community upon release.

Nobody ever contacted you from prison and said, "How are you going to help him?" The end of sentence planning was non-existent as far as I could see, it was literally him ringing us to tell us when he was due out.

I don't think there was a lot of planning from within the prison, I think they were quite reliant on families to do that but when we'd go and pick him up, you'd see other fellas that had come out with the plastic bin bags with nowhere to go, just sat there looking quite dejected really. I just thought what are they gonna do? Where are they gonna go?

Some participants expressed frustration that families are heralded as the golden thread that will enable successful resettlement, yet their needs are given little consideration during release planning.¹⁵⁶ It was emphasised that supporting a family member through imprisonment and release is a heavy burden to carry and certainly one that impacts the entire family.

If there was more support for them when they come out and there was more forward planning, then the burden wouldn't be so much on families... [I know] that if you've got family support, you're more

154 Ministry of Justice, *The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, 2017. Page 70

155 *Ibid.* Page 70

156 Ministry of Justice, *The Farmer Review: The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, 2017. Page 4

likely to come out and make a go of things but I do feel there should be other services there for them and that family should be an adjunct to that but it shouldn't be the whole thing.

Our research highlights how difficult it is to support a family member through the justice system and the process of rehabilitation in the community. It is clear that more needs to be done to ensure families are engaged in the release planning process at the earliest opportunity. This will enable families to understand how best to help their relative, alongside support from statutory services and voluntary sector organisations.

In response to a written parliamentary question submitted by Fiona Bruce MP regarding what steps have been taken to involve families in release planning since Lord Farmer's review, the Prisons Minister Victoria Atkins stated that '*HMPPS are committed to engaging with families and significant others to integrate offenders into the community on release from prison*'.¹⁵⁷ Various initiatives aimed at engaging families in this process were cited. For example, Grand Avenues is underway, a 10-year proof of concept project designed to support male prisoners and their families through 'co-design, ongoing supervision and engagement'.¹⁵⁸ However, given that the Farmer Review was published in 2017, insufficient progress has been made so far.

Recommendation 4.1

Offender management teams should begin release planning for prisoners at the earliest opportunity. If appropriate, families should be involved in this process and be able to meet with a multi-disciplinary support team.

Resettlement Passport Scheme

In the Prisons Strategy White Paper, the Government proposed that all prisoners are given a Resettlement Passport containing everything an individual needs to reintegrate back into society, including proof of identity, bank account details, and a CV.¹⁵⁹ Once an individual enters prison, information regarding their mental health, drug use, education, skills, work experience, accommodation, and family ties, will be recorded in a personalised document. For example, if a person leaving prison is recovering from an alcohol addiction, their resettlement passport may detail their healthcare needs and medication, the contact and appointment details for their GP, information about their alcohol monitoring tag, local substance misuse and mental health services, alongside plans for employment, housing, and key family contacts.¹⁶⁰ By storing all key information in one place, the Resettlement Passport aims to make it easier for prison leavers to engage with multiple services upon release.

¹⁵⁷ UK Parliament, Prisoners' Release: Families, 10 December 2021

¹⁵⁸ Ibid

¹⁵⁹ Ministry of Justice, Prisons Strategy White Paper, December 2021. Page 48

¹⁶⁰ Ibid, Page 50

The passport will include a tailored plan for resettlement which addresses the drivers of offending to enable 'a smooth transition into the community'¹⁶¹ and will ensure there is 'clarity over who is accountable for improving rehabilitation and resettlement outcomes to reduce reoffending'.¹⁶² Given that families are likely to play a key role in this process, the development of the resettlement passport provides a key opportunity to engage family members in release planning so that they are aware of the challenges that their relative may face after custody. This will allow families to have a better understanding of how they can provide support and give them time to make preparations that will make the period of adjustment after release easier.

Release on Temporary Licence (ROTL) can ease the transition from custody to resettlement

Release on Temporary Licence (ROTL) 'facilitates the rehabilitation of offenders by helping them to prepare for resettlement in the community once they are released.'¹⁶³ This scheme allows prisoners to leave prison for short periods of time and is available to eligible prisoners that have undergone a risk assessment carried out by a prison governor. There are four types of ROTL:¹⁶⁴

1. **Resettlement day release licence** – allows prisoners to go out during the day for specific purposes
2. **Resettlement overnight release licence** – allows prisoners to stay overnight at the address that they will be released to from prison
3. **Special purposes licence** – issued at the discretion of the prison Governor for compassionate leave, medical treatment, marriage, legal proceedings or on religious grounds
4. **Childcare resettlement licence** – leave for prisoners who will be the sole carer of a child under the age of 16 once they leave custody

Temporary leave was frequently highlighted in our research as a scheme which helped ease the transition from custody to life after prison for prisoners and their families, as prisoners are allowed to gradually increase the time that they spend at home.

It is no surprise therefore that ROTL is a critical asset in the rehabilitation of prisoners. Evidence shows that for every additional day a prisoner spends on day release as part of ROTL, there was a 0.5% reduction in the odds of them reoffending.¹⁶⁵ Furthermore, each additional overnight stay outside of the prison was associated with a 5% reduction in the odds of reoffending over a one-year follow-up period, after controlling for personal characteristics, offending history and ROTL failure.¹⁶⁶

161 Ibid, Page 48

162 Ibid, Page 48

163 MoJ, Release on Temporary Licence (ROTL) Policy Framework, 2021. Page 6

164 Prisoners' Families Helpline, n.d., Release on Temporary Licence (ROTL)

165 Ministry of Justice, The reoffending impact of increased release of prisoners on Temporary Licence, 2018. Page 1

166 Ibid.

Georgia's story

Georgia's daughter was sentenced to serve two and a half years in a closed prison located several hours away from her family. Not only did Georgia have to deal with the trauma of her daughter going to prison, during this time she was also given parental responsibility for her three grandchildren in the family court since her daughter was formerly their primary caregiver. Subsequently, Georgia was placed under significant emotional and financial pressure to meet the needs of her grandchildren, protect their welfare, and to maintain a relationship with their mother in custody. Despite these overwhelming challenges, Georgia was able to provide adequate care for her grandchildren which meant that their lives remained stable. They could continue to live at their house, attend their school and remain in their friendship groups.

After two and a half years, Georgia's daughter was transferred to a semi-open prison, and she was granted release on temporary licence (ROTL) for the remainder of her sentence. This enabled her to undertake voluntary and then paid work in the community. More importantly, she was able to visit her children, undertake home visits during the weekend and was eventually granted home leave for three consecutive days per week. For Georgia, her daughter's ROTL was transformative; she no longer had to shoulder the burden of caregiving alone. It also meant that Georgia's three grandchildren had an active mother back in their lives who was able to fulfil routine tasks associated with parenthood, such as picking them up from school, making them packed lunches and cooking their dinners. Georgia's daughter has now completed her sentence, successfully reintegrated back into the family unit and the whole family is doing well.

As Georgia's story shows, this 'stepping-stone to resettlement' enables valuable contact with family. This process may help re-establish weakened bonds between family members, especially for young children who were unable to spend much time with their parent prior to their sentence. Temporary leave is therefore critical for prisoners and families alike, helping them strengthen relationships and develop confidence ahead of release.¹⁶⁷

Ministry of Justice data shows that just 20 per cent of male prisoners and 31 per cent of female prisoners who had a custody plan had access to either day or overnight release on temporary licence in 2019–20.¹⁶⁸ It is critical that ROTL is used more widely across the entire estate, particularly for women who are more likely to be primary caregivers, as highlighted in the Prisons Strategy White Paper. It is also important that where ROTL is used, assessments are conducted to ensure it remains helpful for both families and prisoners alike.¹⁶⁹

Recommendation 4.2

Prison governors should ensure that ROTL is used to ease the transition back to family life, especially for those with dependent children.

¹⁶⁷ MoJ, Prisons Strategy White Paper, December 2021. Page 40

¹⁶⁸ Her Majesty's Inspector of Prisons, Annual Report 2020–21, 2021. Page 6

¹⁶⁹ MoJ, Prisons Strategy White Paper, December 2021. Page 55

Support for prisoners without positive family relationships upon release

We recognise that it may not be feasible for all prisoners' families to be involved in preparation for release. For example, in some instances, family and friends may exert a negative influence on an individual and act as the catalyst for criminal activity. For other prisoners, the nature of the offence and subsequent licence conditions may mean it is not appropriate for their family members to play an ongoing role in their life.

In these situations, prisoners can be isolated upon release without positive role models or individuals to support them after custody. In recognition of the needs of this group, a pilot led by the Innovations Unit is underway to reconnect young people serving sentences in Youth Offender Institutions with positive role models who are willing to support them through resettlement.¹⁷⁰

Pilot scheme: LifeLong Links Initiative in custody

A pilot scheme in two young offender institutions, HMP & YOI Brinsford and then HMP & YOI Swinfen Hall, will begin in 2022 to identify people who exert a positive influence on the young person in prison. Those individuals will then be invited to support through their time in custody and after release.

This pilot scheme builds on the model of the Lifelong Links Initiative which seeks to ensure children in care have a positive network of individuals they like and trust around them who can support them into adulthood. The young person is asked, by a designated coordinator, who is important to them, who they would like to get back in touch with and who they would like to know. The coordinator then uses various methods to identify and get in touch with those individuals to bring them together in a family group conference. In this meeting, a plan of support will be developed 'with and for the child' which will be embedded in their care.

We welcome this pilot and urge the Government to continue to consider how individuals without family relationships can be helped to build positive support networks to ensure all prisoners, regardless of their background or family situation, have the best chance of a successful resettlement.

Immediate impacts of release

Day of release

Our interviews revealed the significant practical and emotional hardships that families are burdened with on the day of release. Many families reported that they were not aware of the time that their relative was going to be released and if they were, this schedule was rarely adhered to. Indeed, people who are being released from prison are only processed after all other prisoners who are attending court hearings or being transferred to a different

¹⁷⁰ UK Parliament, Prisoners' Release: Rehabilitation, 10 December 2021

prison have been seen to, meaning that family members are often left in an anxious state outside the prison gate, with little indication of when their relative might come out. Jean whose son served a two-year and 10-month prison sentence, reflected on the following:

They don't give you any proper information. It's just "That's the date". He couldn't get any information about an actual time. He was talking to the wing officer and they just said they couldn't tell him. They said it would be at some point in the morning so I just arrived there at eight o'clock in the morning and I just sat and waited. He rang me that about 20 to nine and by nine o'clock he rang and said "They're just taking me down to the reception area to sign me out and give me my things so I shouldn't be very long" so I'm waiting, waiting, waiting and eventually just after 10 o'clock, the gate opened and out he came with all this stuff.

Families spoke of the shock of seeing their relative emerge from the prison gates with their possessions stored in a bin bag and wearing clothes that were not appropriate for the time of year. Diane recalled the moment she saw her son when he was released from custody:

He had lots of stuff because my son was a big reader so we sent him lots of books. He came out, he had bags and bags of stuff, they just throw them out. They don't help them. He had bags on his back. He was dragging bags behind him. His hair was long, he was unkept and the first thing he said that it was just nice to be able to stand up-right as he had been lying down for so long.

The presence and support of family members in the immediate hours following release from custody can play a fundamental role in determining the trajectory of a prison leaver's life in the community. Family members often give up their time to accompany or transport their relative to appointments with probation, housing, healthcare, and if required, substance misuse. Rachel, whose son had been in and out of prison for several years, described the following:

He would ring us and tell us when he was due out. He would be on the doorstep of the prison with his stuff in a black bin bag, and I would go round in the car, pick him up, and then if he'd got a place in the hostel, I would take him there. And then, he'd get a discharge grant, I think, about 90 quid or something. I'd think I'd better go and intercept him quickly before that money goes somewhere else. So, I'll go round and get him, take him to hotel, and do whatever else. He'd need to register with a doctor, a dentist, whatever it was. We would do that with him, make phone calls, and things like that. Whatever we needed to do, we'd help him out with, you know.

There are examples of good practice of prisons and voluntary sector organisations offering through the gate support for prisoners and families up and down the country. However,

as our research suggests, all too often families must shoulder the significant burden that the day of release presents in the most challenging of circumstances.

Case study: POPS through the gate project

POPS run a through the gate project at HMP Hindley which offers families the opportunity to be included in meetings so they can understand and discuss any potential implications of their relative's licence conditions. This project helps alleviate the concerns of families regarding their relative's release from prison.

Longer-term impacts of release

Impact of licence conditions and Post Sentence Supervision Requirements on the family

Licence conditions are a *'set of rules prisoners must follow when they are released from prison'*¹⁷¹ for a certain length of time which seek to *'protect the public'*, *'prevent re-offending'* and enable *'successful re-integration'*.¹⁷² The nature of the offence affects what conditions are put in place and for how long. For example, an individual who is given a custodial sentence for alcohol fuelled violence is likely to be given an electronic alcohol monitoring tag upon release as part of an alcohol abstinence order, whereas a sex offender may be subject to an exclusion zone or a non-contact order which dictates where they can and cannot go and who they can and cannot interact with.¹⁷³

Additionally, the Offender Rehabilitation Act 2015 introduced Post Sentence Supervision (PSS) Requirements. Although similar to the licence period, PSS only begins once the licence period has ended. Every individual who receives a short custodial sentence of less than 24 months is subject to 12 months post-sentence supervision in the community, comprised of both the licence and PSS period.¹⁷⁴

Licence conditions are often necessary for the protection of the public and prevention of crime. In instances where families have been the victims of their relative's behaviour, for example if they were subject to domestic abuse, licence conditions are essential to safeguard the welfare of the family and protect them from further violent or controlling behaviour. However, when families have not been a victim of their relative's crimes, and the person in prison intends to return to the family home, licence conditions and post-sentence supervision requirements can cause significant upheaval for families who are given no choice but to adjust their lives accordingly. For example, licence conditions may affect where their family member might live, whether they can return home, what childcare responsibilities they can take on and what hours of the day they may be present in the house.

171 Gov.UK, Licence Conditions and how the Parole Board use them, 22 January 2018

172 MoJ, Licence Conditions Policy Framework, 2021

173 Ibid.

174 Ibid, Page 4

Megan whose partner is currently in custody stated:

When he comes back, we're not quite sure what's going to happen yet because he's going to be released on tag. And [we don't know] when that will be and if he's allowed to even come home. There will definitely be an impact on my children.

Sally described how her son was not able to return to the family home because of his licence conditions. The only relatives whose address was deemed appropriate were his elderly grandparents who were given three days' notice of his arrival.

There was a big fuss and then they checked his father's address and said, "No, that's not suitable either". They checked the house of his grandmother and grandfather as they live in a different area and both the police and probation said "Yep, we've got no problem taking him, he can go there." That was three days before he was released.

However, some families welcome the prospect of their relative being released on tag if it means that they can be released from prison to serve the rest of their sentence in the community:

It's much preferable to where he is... We just want home as soon as possible. I don't care what he is wearing around his leg.

The Licence Conditions Policy Framework rightly prioritises the needs of the victim and their family.¹⁷⁵ It is important to recognise that in all circumstances, including those where family members are themselves the victims of their relative's crime, stringent licence conditions are essential to protect individuals who may be at risk from the prisoner. However, once this risk has been accounted for, due consideration must also be given to the impact that these restrictions will have on the children and families of the person leaving prison, especially given the important role they can play in supporting rehabilitation after release.

Recommendation 4.3

While recognising that the needs of the victim and the community are of utmost importance, care must be taken to ensure licence conditions enable former prisoners to maintain family relationships or undertake childcare responsibilities.

¹⁷⁵ MoJ, Licence Conditions Policy Framework, 2021

Concerns about their relative being recalled

For many families, the threat of recall, whereby an individual is taken back to prison if they have breached their licence conditions, defines the release period.¹⁷⁶ There are several reasons that an individual on licence may be recalled including a charge of further offending, non-compliance, failure to keep in touch and a failure to reside.¹⁷⁷

Notably, recall rates, especially among women, have significantly increased since the Government introduced compulsory post-sentence supervision (PSS) for short-sentenced prisoners upon release. Indeed, this cohort represented 32 per cent of all recalls to custody between April and June 2021.¹⁷⁸ Whilst many family members may be worried about the prospect of their relative being recalled, research (Baldwin, 2021) shows that mothers, in particular, who have served a custodial sentence are often incredibly fearful of being separated from their children again, especially while they are still on licence.¹⁷⁹

We spoke to families whose relatives had been recalled, but neither they nor their family member understood why. The anger and confusion about recall can be exacerbated when there is confusion about what the licence conditions are:

[The court order] was really difficult to interpret. And this is despite the fact that they had told me they were going to come when he got released to explain it all to him which they never did so he always relied on probation's word of what he was allowed to do. They recalled him back in September last year. That second arrest was really horrific.

Our research highlighted that recall, and the period of separation that follows, can be particularly challenging for children.

Mark's story

Mark is 8 years old. His father, who struggles with substance misuse, has been in and out of prison for theft since Mark was a baby. Since he was first released, he has been recalled to prison several times for breaching his licence conditions which has meant that Mark has witnessed his father being arrested in the home on more than one occasion.

Mark's father has failed to communicate consistently with his children throughout this period. This lack of contact has been extremely difficult for Mark. He talks about his father constantly at home, cries himself to sleep, wets the bed and finds it difficult to concentrate.

He expressed that he felt sad when his dad went to prison, yet he does not talk to any of his friends about his feelings. However, he does occasionally confide in his teachers. He now participates in an online support group run by a voluntary sector organisation in the community and has a mentor who provides a stable and reliable male role model.

176 Gov.UK, n.d., Probation [Accessed via: www.gov.uk/guide-to-probation/being-taken-back-to-prison#:~:text=You%20can%20be%20taken%20straight,known%20as%20a%20'recall']

177 MoJ, Offender Management Statistics Bulletin, England and Wales, 28 October 2021. Page 11

178 Ibid, Page 11

179 Baldwin, L. Motherhood Challenged: Exploring the persisting impact of maternal imprisonment on maternal identity and role, 2021. Page 97

For families, the constant fear of being separated from their family member once again consumes everyday life as the threat of recall looms large over the family home. This can be a daily struggle for families and children, who fear having to go through the same traumatising process all over again.

Accommodation upon release

When prisoners return to the family home

A great number of individuals leaving prison will be dependent on their relatives for access to accommodation, as well as other practical needs. Many families we spoke to were happy to take in their relative, and indeed were excited to have them back in the family home.

Families should be given support to come together again after release where they so wish. This means that women leaving custody should be prioritised for housing with their children. Often women face a catch-22 situation, where mothers are ineligible for housing until their children live with them, but their children cannot return to their care until they have suitably sized housing to accommodate the child.

Recommendation 4.4

Families should be supported to come together again after imprisonment where this is the desire of the family and prison leaver and it is safe to do so. This means that women being released from prison who have no housing should be prioritised for housing with their children.

When prisoners do not return to the family home

However, for many, licence conditions will mean their relative is not allowed to return to the family home, while others may not want their relative to live with them immediately after release. Indeed, while a number of individuals are homeless at the point of sentence, many more leave prison with nowhere to live.¹⁸⁰ This will, in part, be because of a breakdown in family relationships during the course of the prison sentence.

Individuals leaving prison often present with complex needs. They may suffer from addiction and poor mental health, they may have experience of abuse, exploitation, and trauma, and they may have very little resources to fall back on, beyond the £76 they are given on release.¹⁸¹ This means that finding suitable accommodation can be more challenging for prison leavers than for other groups, but it is also all the more critical.

Even when it is not appropriate for the prison-leaver to return to the family home, the family of the individual may still be aware of their relative's needs as they leave prison and seek settled accommodation and may still wish to play a supportive role in their life. It is important that, where appropriate, through the gate teams and probation work closely with families to ensure that accommodation that is appropriate to their needs is identified.

¹⁸⁰ Her Majesty's Inspectorate of Probation, Accommodation and support for adult offenders in the community and on release from prison in England, July 2020. Page 4

¹⁸¹ HMPPS, Discharge, 16 August 2021. Page 2

Jane's story

Jane's sister is a drug addict who has served several short custodial sentences for prolific shoplifting and violent behaviour. Jane's sister has undergone several detox and rehabilitation programmes in various prisons but she often relapses once she is back in the community. During her most recent sentence, Jane's sister completed a 12-step programme and was prescribed methadone. While her sister was in prison, Jane advocated on behalf of her sibling to ensure she could access a detox and rehabilitation programme when she was released that was located near her family. Probation agreed that she could detox in a female-only dry house upon release before spending three months at a residential rehabilitation programme. Unfortunately, the agreed housing placement fell through due to a lack of staff. Instead, probation recommended that she should be released from prison to a hotel room by herself until an alternative residential placement became available. This prospect was extremely worrying for Jane. She argued that her sister would not cope well by herself. However, no suitable alternative was found. As a result, Jane had no other option than to collect her from prison and let her stay at her family home for a week, where she lives with her young children. This is despite previous bad experiences where her sister's behaviour has posed a risk to the welfare of her children.

Probation have since tried to house her in accommodation where drug using and dealing is known to take place.

It's like you have to fight for everything all the time. Right now, with her accommodation, they want to put her in a house with drug users and alcoholics and they think that's acceptable. And she's telling them really clearly, "I can't, I'm not safe enough to be around other drug users, I'm not safe enough". She's got a 14, 15-year history of addiction and they want to put her in a home where they'll be dealers waiting for you when you come out.

Former prisoners often require long-term housing, coupled with consistent support. A Through Care model for accommodation and service support on release is critical to the immediate support most prisoners require. The Third Sector is well experienced in supplying such wraparound services but often lacks access to housing stock and to sustained long term funding for the services supplied. This means that all too often, prisoner leavers are housed in unsuitable accommodation which exacerbates their needs. As Jane's story shows, families can be left to pick up the pieces, often offering up their own homes, to prevent homelessness or harm, when there is nowhere else for their relative to turn.

Safeguarding

It is vital that steps are taken to safeguard the welfare of both the individual, and their family, once they are released into the community.¹⁸² Alarmingly, a new report published by HM Inspectorate of Probation highlighted that there is no national policy to mandate domestic abuse and safeguarding checks when a person is granted a home detention curfew as an alternative to custody. The assessment process was found to be inadequate, and safeguarding checks were found to be the exception rather than the norm, both at court and before release from custody.¹⁸³ Whilst this report is supportive of measures

182 NOMS, Adult safeguarding in person, [Accessed via: www.justice.gov.uk/downloads/offenders/psipso/psi-2015/psi-16-2015-adult-safeguarding-inprisons.pdf], Page 16

183 Her Majesty's Inspectorate of Probation, The use of electronic monitoring as a tool for the Probation Service in reducing reoffending and managing risk, January 2022. Page 4

which enable people who have committed criminal offences to maintain relationships with support networks in the community, sufficient safeguarding measures must be implemented to protect the welfare of families and children.

Recommendation 4.5

Probation should ensure that prisoners are adequately safeguarded and allocated suitable accommodation upon release, taking account of safeguarding issues and risks for children and other family members.

Conclusion

Regardless of the crime committed, families will almost always be there, expending huge amounts of time, energy and money trying to support their relative through the long and arduous journey from arrest and through to release. Whether it be the father who turns up to court each day despite the impact it has on his mental health, or the grandparent who was there when no one else was to pick the child up from school, families are a beacon of hope for those who have nowhere else to turn.

All the while, they are at risk of significant psychological, emotional, financial and social harm. From the horrors of arrest through to the emotional upheaval of release, families are subjected to untold trauma throughout their journey through the justice system. And each day, the system turns a blind eye to their needs.

The experiences of families documented throughout this report are not inevitable. From arrest and through to release, there are opportunities to create systemic and cultural change that will make a lasting impact for the wide variety of individuals who come into contact with our criminal justice system each day.

Families are more than a means to an end. They have their own needs, desires, lives to live, and contributions to make. And the system has a responsibility to this group of individuals which it has failed for far too long. We call on the Government to take the action laid out in this report to ease the heavy burden that rests on the shoulders of the families of people in prison.

Appendix: Full list of recommendations

Tackling the trauma of arrest

Recommendation 1.1: Enquiries about the presence of children or other vulnerable adults must take place when a search and/or arrest happens in the family home, with or without a warrant. Where this is not possible before the event, an officer present should still account for and record details of any children or vulnerable adults present at the search following the arrest. This is so that where appropriate, and if they consent, families can be referred for support.

Recommendation 1.2: To the best of their ability, arresting officers should undertake arrests with an immediate family engagement strategy planned. This could include, where appropriate, taking the time to sit down with family members and explain what is happening and why. Police should identify local partners that can provide support to families after arrest. Up-to-date contact information about these partners should be included within the PACE compliant search record book and distributed to those left behind when a premises is entered via a warrant or post-arrest search powers.

Recommendation 1.3: Every police force in England and Wales must have a mechanism of identification and referral for families and children affected by arrest and imprisonment. A referral should be made to the Multi-Agency Safeguarding Hub, and if appropriate and where possible, a voluntary sector organisation or a family hub in the community.

Recommendation 1.4: Specific training for the police into the impact of arrest and imprisonment on children and families should be provided by the College of Policing. The training should seek to mitigate the distress caused to the child during the arrest through child-centred and trauma-informed practices. This training should be incorporated into the refresher training and online learning undertaken by police forces.

Recognising the impact of sentencing on family

Recommendation 2.1: Voluntary sector organisations should be commissioned to provide support for families of defendants across courts in England and Wales, ideally in the form of court-based support workers. This will help ease the pressure on staff and legal professionals within the court system.

Recommendation 2.2: The Government should introduce a statutory duty to be placed upon the courts to consider the best interests of the child and other dependents or the impact of the sentence upon them. This would be in line with existing sentencing guidelines and case law in this area.

Recommendation 2.3: Individuals must not be sentenced without a pre-sentence report (PSR). Where there is no PSR available, unless in exceptional circumstances, the hearing should be adjourned until one is provided. PSRs must consider the impact of a custodial sentence on any dependents.

Recommendation 2.4: Children with a primary carer in prison should be identified as children in need under section 17 of the Children Act 1989. This should be automatic and apply across every local authority in England and Wales.

Recommendation 2.5: Families who take on the care of a child whose parent is in prison should be offered a statutory kinship care allowance in line with foster care allowance. Carers should be signposted to organisations in the community that can offer holistic wrap-around support throughout the prison sentence.

Maintaining connection during custody

Recommendation 3.1: Every person in prison should be given the opportunity to identify someone as a key point of contact, at the beginning of their sentence. The contracted provider of family services at the prison should provide welfare updates to families throughout the first two weeks, inform them of what to expect next and signpost them to helpful online information.

Recommendation 3.2: Safer custody lines should be monitored by HMPPS staff 24 hours a day, seven days a week to enable families to flag welfare concerns. Calls must be logged and responded to in a timely manner.

Recommendation 3.3: HMPPS should ensure that the cost of calls remain affordable for families and as far as is possible, are standardised across the prison estate.

Recommendation 3.4: All prisons across the estate should join the centralised online booking system run by HMPPS to enable social visits to be booked at a time that suits families. A telephone booking line should always remain operational to assist those who are digitally excluded.

Recommendation 3.5: Every prison should have a visitors' centre which signposts families to services that can help and acts as hub of multi-disciplinary support.

Recommendation 3.6: Prison searches are essential to maintain security across the estate. However, prisons should ensure searches are conducted in a respectful manner in the style of airport security.

Recommendation 3.7: Children and families should not be punished for the behaviour of their relative in prison. Family visits, therefore, should not be linked to the Incentives and Earned Privileges (IEP) scheme for any adult prisoner.

Recommendation 3.8: Prison governors should ensure that all people in prison, for example stepparents and grandparents, have equal access to family days given how important they are for maintaining and strengthening familial relationships.

Preparing families for life after prison

Recommendation 4.1: Offender management teams should begin release planning for prisoners at the earliest opportunity. If appropriate, families should be involved in this process and be able to meet with a multi-disciplinary support team.

Recommendation 4.2: Prison governors should ensure that ROTL is used to ease the transition back to family life, especially for those with dependent children.

Recommendation 4.3: While recognising that the needs of the victim and the community are of utmost importance, care must be taken to ensure licence conditions enable former prisoners to maintain family relationships or undertake childcare responsibilities.

Recommendation 4.4: Families should be supported to come together again after imprisonment where this is the desire of the family and prison leaver and it is safe to do so. This means that women being released from prison who have no housing should be prioritised for housing with their children.

Recommendation 4.5: Probation should ensure that prisoners are adequately safeguarded and allocated suitable accommodation upon release, taking account of safeguarding issues and risks for children and other family members.



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