

An aerial photograph of a city, likely in the United States, showing a dense residential area with many houses and trees. In the center of the city, there is a large, multi-story institutional building complex, possibly a prison or a government facility, with several interconnected buildings and a large parking lot. The sky is clear and blue.

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# Prisons: where DOESN'T the community come in?

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**The theme of this year's Perrie lectures, as you know, was 'Prisons: Where does the community come in?' My question is where *doesn't* the community come in? Prison is about much more than the prisoner. However, I'll start by telling you a bit about Families Outside and what we do.**

## Families Outside

Imprisonment is a traumatic experience for families, and its impact is often significant and enduring. Families Outside works to mitigate the effects of imprisonment on children and families — and consequently to reduce the likelihood of reoffending — through support and information for families and for the people who work with them.

Families Outside is the only national charity in Scotland that works solely to support the families of people involved in the criminal justice system. Through our work, we ensure that families affected by imprisonment and the people who work with them are informed and supported; that policy and practice reflects the needs of families affected by imprisonment; and that children and families receive information and support at the earliest possible stage in a way they understand.

## Relevance to prisons

Maintenance of a prisoner's family ties benefits prisons and prisoners in a number of ways. This is the *Life of Brian* question: What have families ever done for us?

First, prisoners who maintain family ties are up to six times less likely to reoffend after release<sup>1</sup>. Exact

estimates vary, with the lowest rate — 39 per cent — cited by the Ministry of Justice in 2009<sup>2</sup>. Regardless of the figure, these benefits are common sense: prisoners who maintain contact with their families are more likely to have a place to stay on release; more likely to have social support; more likely to have financial support; more likely to have links into employment, and so on.

Prisoners who maintain contact with their families also show improved behaviour in prison<sup>3</sup> and improved mental health<sup>4</sup>. They are also more likely to reunite with their families after release. Conversely, family breakdown is a risk factor in and out of custody: prisoners who experience family breakdown are at higher risk of suicide<sup>5</sup>. After release, breakdown in relationships has implications for homelessness, breach, and relapse into substance misuse and mental health problems, all of which have clear implications for further offending.

A recent example of the influence of family is the Ken Loach film, *The Angels' Share*. The film's protagonist has a long history of offending and has spent time in prison but is trying to stay out of trouble due to his girlfriend's influence and the fact that they have just had their first baby. The film is a powerful depiction of the difficulties many offenders face in staying away from crime, especially in the face of unstable housing, local conflicts and violence, and few prospects for employment.

The influence of family is not a new theme within the Prison Service in England and Wales. For those of you old enough to remember, the Woolf Inquiry highlighted this issue specifically:

*The disruption of the inmate's position within the family unit represents one of the most*

1. Holt and Miller (1972) *Explorations in Inmate-Family Relationships*. California Department of Corrections Research Report 46, Hairston, C. F. (1991) *Family Ties During Imprisonment: Important to Whom and for What?* in *Journal of Sociology and Social Welfare* 18 (1), 87-104.
2. Ministry of Justice and Department for Children, Schools and Families (2009) *Reducing re-offending: supporting families, creating better futures — A Framework for improving the local delivery of support for the families of offenders*. London: MoJ and DCFS.
3. Scottish Forum on Prisons and Families and the Scottish Prison Service (2000) *Report on Facilities for Families visiting prisons in Scotland in 2000: Implementing the standards and increasing good practice*. First Annual Report of the Scottish Forum on Prisons and Families and the Scottish Prison Service joint standing committee. Edinburgh: Scottish Forum on Prisons and Families.
4. Hairston (1991) see n.1.
5. Akhurst, M., Brown, I., and Wessely, S. (1995) *Dying for Help: Offenders at Risk of Suicide*. Wakefield: West Yorkshire Probation Service.

*distressing aspects of imprisonment... Enabling inmates, so far as possible, to stay in close and meaningful contact with the family is therefore an essential part of humane treatment .... There is every reason to believe that the nature of a prisoner's relationship with his or her family will be an important factor in determining whether he or she will succeed in leading a useful and law-abiding life on return to the community.*<sup>6</sup>

Maintaining a prisoner's links to the community is a common theme internationally as well:

*It is critical... that the prison system not further exacerbate prisoners' isolation beyond that which is inherent to incarceration. Instead of creating impediments to prisoners' contacts with outsiders, the burden is on the prison system to facilitate such contacts.*<sup>7</sup>

Within Europe, the need to focus on a prisoner's reintegration is embedded in the European Prison Rules, as well as in the domestic legislation of a number of member states<sup>8</sup>:

*The preparation of prisoners for release should begin as soon as possible after reception in a penal institution. Thus, the treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. (European Prison Rules 70.1)*

This includes contact with families as well as links with the community more broadly.

### **Prisons: current links**

Prisons throughout the UK already support links between prisoners and families in a number of ways.

Parenting programmes such as Safe Ground's Fathers Inside and Family Man programmes conduct extensive work with prisoners and their families on parenting and relationships. In Scotland, the Triple P parenting programme extends into prison and includes partners in the work within prison — occasionally including prison staff in the parenting groups alongside prisoner participants. Family Days and Family Learning programmes such as those at The Wolds and the Learning Together project at HMP Parc are other innovative ways of engaging prisoners in their parenting roles alongside their children and (sometimes) partners.

In all prisons in Scotland and some in England and Wales, Family Contact Officers (or Family Liaison Officers) are actively engaged in supporting links between prisoners and their families, which in some prisons can include parenting work. In most prisons in England and Wales and, conversely, very few in Scotland<sup>9</sup>, prison visitors' centres play an important role in bridging prisons and communities. Arts projects such as Theatre Nemo and Artlink Central in Scotland, and arts programmes in prison culminating in things such as the

annual art show at HMP Shotts, are further means of linking people in prison with their families and communities.

### **Impact of imprisonment**

The reality, however, is that prison separates people from their families and therefore actively fractures these links. About half of prisoners (43 per cent of sentenced prisoners and 48 per cent of remand prisoners)<sup>10</sup> lose contact with their families when they enter prison. Only about half of prisoners use their minimum entitlement to visits (HMCIP 2001). This is a specific effect of imprisonment itself: Grounds<sup>11</sup> reports breakdowns in relationships where prisoners' convictions have been overturned, as the separation through imprisonment changed family dynamics to such an extent that they could not recover. Of the

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6. Woolf, LJ and Tumim, S. (1991) *Prison disturbances April 1990: Report of an inquiry*. Cmnd 1456. London: HMSO ch. 14, para. 223, emphasis added).  
7. (Human Rights Watch 1998: ch. IX).  
8. For example in the Prison Act in Germany see Lazarus, L. (2004) *Contrasting Prisoners' Rights: A Comparative Examination of Germany and England*. Oxford: Oxford University Press.  
9. See Families Outside (2010) *Prison Visitors' Centres: An ongoing debate in In Brief* 5. Edinburgh: Families Outside.  
10. Social Exclusion Unit (2002) *Reducing Reoffending by Ex-Prisoners*. London: Home Office and NACRO (2000) *The forgotten majority: The resettlement of short term prisoners*. London: NACRO.  
11. Grounds, A. (2009) *The effects of wrongful conviction and imprisonment*. Challenging Crime: A Conference to Celebrate 50 Years of the Institute of Criminology. Institute of Criminology, Univ of Cambridge, 24 September 2009.

couples he worked with, only 8 of 22 marriages survived, with 11 ending during custody and 3 ending after release. *The fact of imprisonment itself* therefore has measurable negative effects on children and families.

Loss of contact between prisoners and families may well be due to practical reasons as well as emotional ones. Andrew Coyle notes, for example:

*Given that many prisoners come from marginalised and impoverished backgrounds, the cost of travelling long distances may mean it will not be possible for families to visit if the prison is a long distance from the area where the family lives.*<sup>12</sup>

Ten years later this is still the case, if not more so:

*... the poorest households with a car were spending at least 17 per cent of their income on transport.*<sup>13</sup>

There are many other reasons, however. Imprisonment has enormous implications for the families left outside. These include factors such as the following:

- ❑ Loss of income: often the main wage-earner is the one in custody, social welfare benefits may decrease, or the family may be left responsible to pay for debts or compensation. Loss of income can affect families even when they have already split up: one lady we spoke to had lost her child support payments when her ex-partner went to prison, saying 'He's doing the sentence, but I'm paying the price.'
- ❑ Loss of housing: a tenancy may have been in the name of the person now in prison — something which is more often the case for female offenders. A reduction of income may mean they cannot afford to stay where they are, or they may be targeted by neighbours, people connected with any victims, or the victims themselves.

## Imprisonment has enormous implications for the families left outside.

❑ Shame: this is crucial, as it is an important reason why families tend not to access any resources that may be available. They do not wish to identify themselves as people with a family member in prison, so they will not seek the help they need and are unlikely to tap into support available in the community. Research by the University of Cambridge noted that 72 per cent of families visiting prisons were receiving no support of any kind<sup>14</sup>. Prisons can therefore become the only means of accessing families to ensure they have the support and information they need;

❑ Victimization: families were commonly targeted by neighbours or by victims or victims' families. I spoke to one woman with a 2-year old daughter who had been approached on the street and threatened, finding stab-marks in her door, etc. She was in council housing, and it took the council 18 months to move her to other accommodation<sup>15</sup>. You may also recall the case of Joan and John Stirland a number of years ago in England; their son was in prison for assault, so they were killed in retaliation. Again, they had committed no offence themselves, but were targeted anyway; and

❑ Cost and logistics of transport: a report for Families Outside<sup>16</sup> showed that almost half of prisoners' families in Scotland spend between five and twelve hours for a return journey to a prison for a visit. Difficulties with travel and transport can itself be a reason families lose contact with someone in prison. We worked with a young mum whose partner was on remand in HMYOI Polmont — Scotland's only Young Offender Institution. She was based in Dumfries and travelled by public transport for five hours each way for the half-hour visit she was entitled to. Costs can also be prohibitive, yet only about a third of families are aware of the financial support available through the Assisted Prison Visits Scheme<sup>17</sup>.

❑ Impact on children: the impact on children is particularly extreme, especially where a

12. Coyle, A. (2002) *A Human Rights Approach to Prison Management* London: International Centre for Prison Studies.

13. Dalton, A. *Families plunged into 'transport poverty'* in *The Scotsman*, 29 Feb. 2012.

14. Pugh, G. and Lanskey, C. (2011) *'Dads Inside and Out': study of risk and protective factors in the resettlement of imprisoned fathers with their families*. Conference paper for *What's new in Research and Evaluation? Informing our work with prisoners and offenders and their families*. Institute of Criminology, University of Cambridge, 19 May 2011.

15. Loucks, N. (2004) *The Tayside Family Project*. Dundee and Edinburgh: Tayside Criminal Justice Partnership and Families Outside.

16. Higgenbotham, M. (2007) *Do Not Pass Go? Travel Links to Scottish Prisons*. Edinburgh: Families Outside.

17. Loucks, N., Nugent, B., and Stalker, E. (2009) *Edinburgh Prison Visitors' Centre: Survey of Visitors and Staff*. Glasgow and Edinburgh: Robertson Trust and Families Outside.

mother is imprisoned. More detail about this will follow below.

- ❑ Lack of information: families often receive little or no information about their family member following arrest and imprisonment, especially if the person in prison is unwilling or unable to provide this themselves<sup>18</sup>. The quality of and access to family induction programmes in prisons varies widely, assuming families even know which prison their family member is in.
- ❑ Little involvement in the decisions that affect them: prison staff and other professionals regularly take decisions about prisoners that have an impact on families, particularly basic information such as where a prisoner is located and date of release. The Scottish Prison Service is making efforts to include families in prison case conferences to plan for prisoners' release, though even then information can be lacking. We worked with one woman whose husband would have conditions on his license regarding where he could live on release. This lady was willing to sell their home and buy a new one in a location that would be suitable, but discussion of what the conditions would be would not take place until six weeks prior to her husband's release — not enough time for her to make the arrangements she needed.

Basically imprisonment puts the entire family under tremendous stress. The impact of imprisonment affects many more people than the prisoner. Further, these issues extend well beyond the justice system into housing, health and mental

health, schools and education, children and young people, income and social welfare, and so on. The broad range of issues means that many professionals will come into contact with these children and families — but none has overall responsibility for supporting them. Agencies work in silos, with few making the connections that would support these families more appropriately, especially if the family is unwilling to disclose their circumstances, again due to the shame or stigma of having a family member in prison.

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### Children of prisoners

I mentioned previously that imprisonment has a particular impact on the children of prisoners. About half of men and two-thirds of women in prison are parents of dependent children<sup>19</sup>. Based on estimates from the available research and recent increases in the prison population, we know that every year in the UK about 160,000 children are separated from a parent through imprisonment (an estimate recently raised to 200,000), with estimates of about 18,000 separated from an imprisoned mother. In Scotland, the equivalent estimate was that 16,500 children are separated from a parent through imprisonment, with about 1,850 separated from an imprisoned mother. This means that each year, more children experience a parent's imprisonment than a

parent's divorce<sup>20</sup>.

Because these figures were estimates, and disputed estimates at that, we managed to include this question in the most recent Scottish Prisoner Survey. Figures from the Survey showed that, every day, about 7,600 children in Scotland have a parent in prison. This brings the estimate of children affected per year up to 27,000 — raising the equivalent number in England and Wales to at least 270,000, and nearly double the figures affected by divorce in that time. This shows clearly how hidden this population actually is.

18. See for example the *No One Knows* programme of research from the Prison Reform Trust regarding prisoners with learning difficulties and learning disabilities <http://www.prisonreformtrust.org.uk/ProjectsResearch/Learningdifficultiesanddifficulties>

19. Scottish Prison Service (2011) *Scottish Prisoner Survey 2011*. Edinburgh: SPS.

20. Action for Prisoners' Families, CLINKS, Prison Advice & Care Trust and the Prison Reform Trust (2007) *Parliamentary Briefing: The children & families of prisoners: recommendations for government*. London and York: APF, CLINKS, pact, and PRT.

## Impact of imprisonment on children

Children of prisoners have a higher risk of future imprisonment<sup>21</sup>. For example the Equal Opportunities Committee of the Scottish Government<sup>22</sup> reported that half of children with a mother in prison end up in prison themselves. They also show a higher risk of substance misuse. Higher risk of problems with physical and mental health are also evident in the literature, with children of prisoners developing serious mental ill health at three times the rate of other young people<sup>23</sup>. Imprisonment of a parent does not necessarily cause these problems: children of prisoners are often living in difficult circumstances anyway, and the characteristics you see here are very similar to the characteristics of looked after children<sup>24</sup>. In saying this, many children are looked after because a parent is in prison. The relationship is complex, but there is no doubt that a parent's imprisonment exacerbates these problems, particularly in relation to future offending.

Regressive behaviour is a common reaction from children, often showing up through deterioration in behaviour and performance in school. This type of behaviour is very similar to children who have suffered a bereavement. 'Grief reactions' such as anger and acting out, self-medication, isolation, and so on parallel the two experiences. An important difference between loss through death and loss through imprisonment is that the former engenders sympathy and social support, whereas imprisonment fosters hostility and stigma. Doka refers to 'disenfranchised grief', referring to grief that people experience that is not socially supported<sup>25</sup>.

Multiple care arrangements are common when any parent goes to prison but are a particular problem when a mother goes to prison. Children are likely to move a number of times during a family member's imprisonment and may be separated from siblings, friends, schools and so on.

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(son, age 19).

Finally, children often do not learn about a family member's imprisonment from their own family. Carers report knowing what to say to children when a family member goes to prison as one of the most stressful aspects for them. Parents and carers will often try to hide the imprisonment from children, saying 'Mummy's in hospital' or 'Daddy's working away', but children often realise the truth for themselves for example from other children at school or, as they get older, from reading the signs at the prison. One man I spoke to said his 18-month old son talked about daddy being in prison before anyone in the family had discussed it with him. The difficulty is that children often find out before they've had an opportunity to talk about it with their parents or to ask questions. They in turn become afraid to discuss it and 'play along' with the family's attempts to hide it from them.

Calls to Childline in Scotland reflect clearly some of the feelings young people experience when a family member goes to prison:

*No-one explained anything. I knew he was getting kept in, but I didn't know where.* (daughter, age 12).

*Folk shouted 'murderer' at me in the street.* (daughter, age 15).

*Someone should have just asked me what was wrong [at school].*

I want to focus on the theme of children and imprisonment, as it shows clearly what we mean when we say prison has everything to do with wider communities. In Scotland, we have seen a range of initiatives and research focused on children affected by imprisonment. Scotland's Commissioner for Children and Young People wrote a thematic review on this called *Not Seen, Not Heard, Not Guilty*<sup>26</sup>. One of the main recommendations from this report was for child

21. Farrington, D.P., Barnes, G.C., and Lambert, S. (1996) *The concentration of offending in families in Legal and Criminal Psychology* 1, 47-63.
22. Equal Opportunities Committee (2009) *Female Offenders in the Criminal Justice System*. SP Paper 332. EO/S3/09/R3. Edinburgh: Scottish Parliament.
23. Philbrick, D. (1997) *Child and Adolescent Mental Health and the Prisoner's Child*. Durham: NEPACS.
24. Murray, J., Loeber, R., and Pardini, D. (2012) *Parental involvement in the criminal justice system and the development of youth theft, depression, marijuana use, and poor academic performance in Criminology* 50(1), 255-302.
25. Doka, K. J. (1998) *Living With Grief: Who We Are, How We Grieve*. Washington, DC: Hospice Foundation of America.
26. Marshall, K. (2008) *Not seen. Not heard. Not guilty. The rights and status of the children of prisoners in Scotland*. Edinburgh: Scotland's Commissioner for Children and Young People.

impact assessments to be conducted at the point of sentence. This recommendation flagged up a theme that has remained prominent, namely that adult, offender-focused systems tend to overlook their impact on children.

Two reports on how child and family impact assessments might work in practice as well as children's perspectives on these followed shortly afterwards, alongside a visit to Scotland from South African Justice Albie Sachs, who made a landmark ruling about the judiciary's need to take the impact on children into account in its decisions (see below). In 2011 the Parliamentary Cross-Party Group on Children and Families Affected by Imprisonment held its first meeting. On behalf of the Cross-Party Group, Together Scotland, Scotland's Commissioner for Children and Young People, and Families Outside submitted a paper for the United Nations' Universal Periodic Review of Human Rights, which has been reviewing the UK's record this year. The recommendations to the UK from other countries as a result means the UK, if it accepts the recommendations, will be obliged to review its record in relation to these children.

Winston Churchill Fellow Sarah Roberts is currently working to develop links between prisons and schools, specifically looking at how schools can support children of prisoners more effectively. This includes a look at how schools can support parents in prison to engage with their children's education. The consultation for the Scottish Government's National Parenting Strategy included discussion groups with parents in prison and the carers outside to take into account how prisoners can be supported as parents. Finally, Sir Harry Burns, Chief Medical Officer for Scotland, is exploring more broadly how issues such as health and attachment can be addressed as a community issue and how communities can be empowered to sustain this work themselves<sup>27</sup>.

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In sum, a range of work is underway that recognises the need to consider prisons in the context of families and communities rather than in isolation. We are not alone in this, however, and other countries have secured a stronger footing in this regard. Again, looking at the example of children of prisoners, we see a number of examples of practice that takes more account of people other than the offender. In South Africa, the case of *S v M* (2007) was a landmark decision that required that judges take into account the needs of dependents when sentencing a primary carer:

*... all South African courts [must] give specific consideration of the impact on the best interests of the child when sentencing a primary caregiver. If the possible imprisonment will be detrimental to the child, then the scales must tip in favour of a non-custodial sentence, unless the case [is] so serious that that would be entirely inappropriate.*<sup>28</sup>

The courts have since pulled back from this decision to some degree, with consideration of dependents now limited to single primary caregivers only<sup>29</sup>.

In India in October 2011, the High Court of Gujarat ordered State support of a prisoner's family because the imprisonment had caused them 'untold misery and deprivation without any fault on their part.' Similar consideration of the family is evident in countries such as Argentina, Germany, and Italy, all of which make some provision for mothers of young children to serve prison sentences part-time, for example returning to prison in the evening, or as house arrest<sup>30</sup>. Scotland has made some gestures in this regard, for example with a Sheriff last year allowing a woman to return home to make arrangements for the care of her children before serving her sentence in HMP Cornton Vale<sup>31</sup>. While welcome, this has not established a legal precedent and remains very much an exception to the norm.

27. Burns, Sir H. (2011) *Assets for Health and New Approaches for Scotland*. December 2011 Christmas Lecture. UK Healthy Cities Network. <http://www.healthycities.org.uk/resources.php?s=78>

28. *S v M* 2007 (2) SACR 539 (CC).

29. *S v S* (CCT 63/10) [2011] ZACC 7; 2011 (2) SACR 88 (CC); 2011 (7) BCLR 740 (CC) (29 March 2011).

30. Robertson, O. (2012) *Collateral Convicts: Children of incarcerated parents*. Recommendations and good practice from the UN Committee on the Rights of the Child Day of General Discussion 2011. Geneva: Quaker United Nations Office.

31. Currie, G. (2011) *Sent home to warn daughter she's off to jail* in *The Scottish Sun*, 4 March 2011. <http://www.thescottishsun.co.uk/scotsol/homepage/news/3445527/Sent-home-to-warn-daughter-shes-off-to-jail.html>

## The rights of the child

The UN Convention on the Rights of the Child — to which the UK is a signatory — speaks very clearly of the need to take the best interest of the child into account for any decision that affects them (*Article 3.1*):

*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.*

This includes prisons, yet we tend to overlook children when we think about prisons. Similarly (*Article 12*):

- 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

Importantly this includes administrative decisions, yet these take place in prisons on a regular basis with no involvement of the family, let alone specific consideration of children. Loureiro<sup>32</sup> looked at this in relation to decisions in court and what children themselves wanted to happen:

*When listening to the children, it was clearly evident that many clung to the hope that their feelings would make a difference to the sentence given by the judge.*

Again, international protocols are very clear on this. The UN Rules on the Treatment of Women Prisoners (the Bangkok Rules) state, for example that (Rule 2.2):

*Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.*

And again, the UK is a signatory to this.

In September 2011, the UN Committee on the Rights of the Child hosted a Day of General Discussion that focused for the first time on children with imprisoned parents. The Quaker United Nations Office compiled a detailed report on the event<sup>33</sup>, which included the following recommendations:

*Child impact assessments should be conducted whenever considering placing or releasing parents from custody.*

*Non-custodial sentences should also be assessed for their impact on children.*

*When a sentence causes parents to be separated from children for whom they are caring, they should be given sufficient time to make arrangements for those children.*

. . . adult-focused systems, and arguably adult, offender-focused systems in particular, tend to overlook their impact on people other than their main client group.

So far this paper has focused heavily on the rights of children more broadly, which may seem to drift away from the context of prisons. The point however is this: adult-focused systems, and arguably adult, offender-focused systems in particular, tend to overlook their impact on people other than their main client group. A clear example of this is the fact that the Scottish Prison Service (SPS) currently has no operational overarching child protection policy. Some individual prisons have developed their own, and the SPS is currently drafting a new policy.<sup>34</sup> In the interim, this leaves prison staff who have identified concerns unsure of where to go with them. More seriously, perhaps, it means that prison

32. Loureiro, T. (2009) *Child and Family Impact Assessments in Court: Implications for Policy and Practice*. Edinburgh: Families Outside and Loureiro, T. (2010) *Perspectives of Children and Young People With a Parent in Prison*. Edinburgh: Scotland's Commissioner for Children and Young People and Families Outside.

33. Robertson (2012) see n.30.

34. SPS published its new child protection policy in September.



staff do not recognise that child protection and safeguarding has anything to do with them. Child protection has something to do with all of us; the Children Acts for England and Wales and for Scotland assign a duty of care to all of us, whether we work with children on a day to day basis or otherwise. This has everything to do with prisons.

In recognition of this, and on behalf of the Cross-Party Group on Children and Families Affected by Imprisonment, Together Scotland, Scotland's Commissioner for Children and Young People, and Families Outside submitted a recommendation to the UN Human Rights Council's Universal Periodic Review (UPR), as noted above. Again, the UPR is a process by which, every four years, each member state is subject to peer review of its human rights record, and 2012 is the UK's second review. The draft submission to the UPR made the following recommendation:

To improve support for children with a parent in prison across the UK and devolved governments, including by:

- using child impact assessments (as noted above)
- establishing visitors' centres at all prisons (something which is common practice in England, Wales, and Northern Ireland but very much the exception in Scotland); and, more contentiously
- ensuring that visits are a right of the child rather than a privilege of the prisoner that can be withdrawn as a disciplinary measure.

This last point, which is also part of the Bangkok Rules on Women in Prison, conflicts with common practice in prisons. Prisons throughout the UK comply with this to some extent, in that all prisoners are entitled to a minimum of two visits a month, regardless of their behaviour, with closed (non-contact) visits if deemed necessary. The practice of using visits as a tool for discipline applies more to 'bonding' visits (parent-child visits) and their withdrawal. The concern is that this interferes with a child's right to quality contact with their parent; how

do you explain to a child why they can only see their parent twice a month now, or why their parent is no longer allowed to get up and play with them? The child will feel that they are the ones being punished, or blame the parent for not wanting to be with them any more. Where relationships are already strained, and parental interaction with children is limited, such practices are not helpful. In South Africa, Justice Sachs made this point clearly in his judgment on the imprisonment of primary carers:

*Every child has his or her own dignity. If a child is to be constitutionally imagined as an individual with a distinctive personality, and not merely as a miniature adult waiting to reach full size, he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.... The sins and traumas of fathers and mothers should not be visited on their children.<sup>35</sup>*

Child protection has something to do with all of us; the Children Acts for England and Wales and for Scotland assign a duty of care to all of us, whether we work with children on a day to day basis or otherwise. This has everything to do with prisons.

#### **Families as part of the solution**

Not all of this is about rights and obligations. Better interaction with families can be beneficial for everyone. In the United States, an organisation called Family Justice (now part of the Vera Institute for Justice) promotes engagement with families as a crucial element of

justice practice:

*Changing the lens to think about the family as a unit of analysis has really had an impact on the workforce; parole officers, probation officers, correctional staff are all recognising that they don't have to do their job alone; that there's a natural network; very connected, committed and loving that can be tapped to help them do their job.... They should be part of the collaborative team; they count, they're a member and they're not just part of the problem.<sup>36</sup>*

35. S v M 2007 see n.28 , emphasis added.

36. Shapiro, C. (2011) <http://www.youtube.com/watch?v=qyFhij0BJE>

In saying this, we recognise that families are not always a positive influence. Indeed, Families Outside regularly supports families divided by domestic abuse or families for whom maintaining ties with the prisoner is otherwise not in their best interest. This is why Family Justice commends the use of strengths-based genograms, which takes the standard social work/probation tool of genograms and applies it to the identification of positive supports within families. Even where the immediate family is not best placed to support a prisoner, often an aunt or a grandparent or even a key worker may be able to provide that positive influence and social support. Family Justice also developed the Relational Inquiry Tool specifically for prison staff to use to identify positive relationships and potential motivators for prisoners to help them focus on and plan for their release.

### **Conclusions: Prisons, prisoners, families, and communities**

Returning to the earlier *Life of Brian* question of the relevance of families to prisons and prisoners, the following areas all provide opportunities for better engagement between families and communities with prisons and the wider justice system:

- ❑ Information at arrest — From the earliest point, families need information about what is happening to their family member and what support is available.
- ❑ Training — Prison staff need to know about the impact of imprisonment on children and families and about how they can support families to cope with this. This applies equally to police and court staff but also to agencies outside the criminal justice system such as health, housing, and schools.
- ❑ Identification of vulnerable families — Families who visit prisons are often not accessing support for the many issues they face, both as a result of the imprisonment and more generally through their life circumstances. These families are also often very difficult to identify in other contexts.
- ❑ Child protection/Children's Act — All agencies have a duty of care to children

vulnerable for whatever reason. Adult-focused agencies tend to overlook this, but imprisonment of a parent is a classic example of where issues for children and adults overlap.

- ❑ Risk assessment/MAPPA — Families are often left out of the risk assessment process. However, they have known the person in prison longer and are more likely to have full information about triggers and patterns of behaviour that may not be evident from clinical or actuarial assessments.
- ❑ Risk management — Families are likely to be in more regular contact with prisoners on release than are statutory services. Their support matters; we should recognise this.
- ❑ Home Detention Curfew, Home Leave and parole — These decisions have a direct impact on families, yet the families are rarely included in these discussions. Where positive supports can be identified, families are an asset and should be treated as such. Further, they have their own needs and rights, which should be supported and respected. They are not the ones convicted of the offence.
- ❑ Prevention of breach — Good relationships and positive family support reduce the likelihood of breach as well as homelessness, relapse, and reoffending.
- ❑ Prevention of crime — Support for families affected by imprisonment reduces a prisoner's risk of reoffending. Equally, however, it improves the longer-term life chances of their children and families.
- ❑ Prevention of longer-term problems — The impact of imprisonment on children and families is wide-ranging, with the criminal justice process only a small part of a much larger picture. This impact on housing, education, physical and mental health, finance and benefits, victimisation, offending and so on has longer-term consequences for the family — and consequently for communities — as a whole.