

## FROM RIGHTS TO REALITIES— AN AGENDA FOR ACTION

- 1. I have the right to be kept safe and informed at the time of my parent's arrest.**
  - Develop arrest protocols that support and protect children.
  - Offer children and/or their caregivers basic information about the post-arrest process.
- 2. I have the right to be heard when decisions are made about me.**
  - Train staff at institutions whose constituency includes children of incarcerated parents to recognize and address these children's needs and concerns.
  - Tell the truth.
  - Listen.
- 3. I have the right to be considered when decisions are made about my parent.**
  - Review current sentencing law in terms of its impact on children and families.
  - Turn arrest into an opportunity for family preservation.
  - Include a family impact statement in pre-sentence investigation reports
- 4. I have the right to be well cared for in my parent's absence.**
  - Support children by supporting their caretakers.
  - Offer subsidized guardianship.
- 5. I have the right to speak with, see and touch my parent.**
  - Provide access to visiting rooms that are child-centered, non-intimidating and conducive to bonding.
  - Consider proximity to family when siting prisons and assigning prisoners.
  - Encourage child welfare departments to facilitate contact.
- 6. I have the right to support as I face my parent's incarceration.**
  - Train adults who work with young people to recognize the needs and concerns of children whose parents are incarcerated.
  - Provide access to specially trained therapists, counselors, and/or mentors.
  - Save five percent for families.
- 7. I have the right not to be judged, blamed or labeled because my parent is incarcerated.**
  - Create opportunities for children of incarcerated parents to communicate with and support each other.
  - Create a truth fit to tell.
  - Consider differential response when a parent is arrested.
- 8. I have the right to a lifelong relationship with my parent.**
  - Re-examine the Adoption and Safe Families Act.
  - Designate a family services coordinator at prisons and jails.
  - Support incarcerated parents upon reentry.
  - Focus on rehabilitation and alternatives to incarceration.

# CHILDREN OF INCARCERATED PARENTS

## A BILL OF RIGHTS

- 1. I have the right TO BE KEPT SAFE AND INFORMED AT THE TIME OF MY PARENT'S ARREST.**
- 2. I have the right TO BE HEARD WHEN DECISIONS ARE MADE ABOUT ME.**
- 3. I have the right TO BE CONSIDERED WHEN DECISIONS ARE MADE ABOUT MY PARENT.**
- 4. I have the right TO BE WELL CARED FOR IN MY PARENT'S ABSENCE.**
- 5. I have the right TO SPEAK WITH, SEE AND TOUCH MY PARENT.**
- 6. I have the right TO SUPPORT AS I FACE MY PARENT'S INCARCERATION.**
- 7. I have the right NOT TO BE JUDGED, BLAMED OR LABELED because my parent is incarcerated.**
- 8. I have the right TO A LIFELONG RELATIONSHIP WITH MY PARENT.**

SAN FRANCISCO  
CHILDREN OF  
INCARCERATED  
PARENTS PARTNERSHIP

# CHILDREN OF INCARCERATED PARENTS: A BILL OF RIGHTS

Revised, Summer 2005

**San Francisco Children of Incarcerated Parents Partnership  
(formerly SFPIP)**

**Supported by the Zellerbach Family Foundation**

The San Francisco Children of Incarcerated Parents Partnership (SFCIPP) is a coalition of social service providers, representatives of government bodies, advocates and others who work with or are concerned about children of incarcerated parents and their families. Formed in 2000 under the auspices of the Zellerbach Family Foundation, SFCIPP works to improve the lives of children of incarcerated parents, and to increase awareness of these children, their needs and their strengths.

After studying the issues affecting these children and their families, SFCIPP members agreed that a children's perspective was the logical framework from which all future work should evolve. We understand that children's rights and needs may sometimes conflict with, and must be balanced against, institutional concerns and requirements, but believe it is essential to start from the child's perspective and work on what is possible from there.

The bill of rights that follows is derived from the experience of Gretchen Newby, executive director of Friends Outside—who drafted the original bill of rights on which this one is based—in working with families affected by incarceration, and from interviews conducted by journalist Nell Bernstein with over 30 young people who have experienced parental incarceration (the names of those interviewed have been changed). It also relies on the research and conclusions of Charlene Simmons of the California Research Bureau and Peter Breen of the Child Welfare League of America, and derives in great part from the ongoing conversation that has been taking place among SFCIPP members under the guidance of Ellen Walker of the Zellerbach Family Foundation. Sydney Gurewitz Clemens, Cassie Pierson, and Ellen Walker provided editorial guidance.

## FROM RIGHTS TO REALITIES

Since the Bill of Rights was first published in 2003, it has been widely distributed and used in venues around the country to educate the public, provoke discussion, and train service providers.

In 2005, SFCIPP launched the Rights to Realities Initiative, with the long-term goal of ensuring that every child in San Francisco whose parent is arrested and/or incarcerated is guaranteed the rights that follow. Our current work plan involves assessing the current status of each right in San Francisco, and the availability of model practices from around the nation; identifying which agencies might contribute to addressing each right; and working with those agencies to develop responsive policies and practices. Our overarching aim is to ensure that every decision about criminal justice policy and practice takes into account the needs and hopes of children.

For inquiries about SFCIPP and the Rights to Realities Initiative, please contact Nell Bernstein at [nebernstein@earthlink.net](mailto:nebernstein@earthlink.net) or PO Box 293, 1563 Solano Avenue, Berkeley, CA 94707.

Rights conceived by Gretchen Newby, Friends Outside. Text by Nell Bernstein, SFCIPP Coordinator. Interior photographs by Joseph Rodriguez/Black Star. Art by Zoe Willmott.

Additional copies, in English or Spanish, and copies of the Bill of Rights training video, are available from

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**T**WO POINT FOUR MILLION AMERICAN CHILDREN HAVE A PARENT BEHIND BARS TODAY. Seven million, or one in ten of the nation's children, have a parent under criminal justice supervision—in jail or prison, on probation, or on parole.

Little is known about what becomes of children when their parents are incarcerated. There is no requirement that the various institutions charged with dealing with those accused of breaking the law—police, courts, jails and prisons, probation departments—inquire about children's existence, much less concern themselves with children's care. Conversely, there is no requirement that systems serving children—schools, child welfare, juvenile justice—address parental incarceration.

Children of prisoners have a daunting array of needs. They need a safe place to live and people to care for them in their parents' absence, as well as everything else a parent might be expected to provide: food, clothing, medical care.

But beyond these material requirements, young people themselves identify less tangible, but equally compelling, needs. They need to be told the truth about their parents' situation. They need someone to listen without judging, so that their parents' status need not remain a secret. They need the companionship of others who share their experience, so they can know they are not alone. They need contact with their parents—to have that relationship recognized and valued even under adverse circumstances. And—rather than being stigmatized for their parents' actions or status—they need to be treated with respect, offered opportunity, and recognized as having potential.

These needs, too often, go not just unmet but unacknowledged. Over the years, a series of court cases has delineated the rights of prisoners in the United States. These rights are limited, and difficult to enforce, but they are at least recognized. The idea that prisoners, while they may be required to forfeit the right to liberty, nevertheless retain other rights that demand respect, is generally taken for granted. Where it is not, advocates are ready and able to step in and fight on behalf of the incarcerated.

The children of prisoners are guaranteed nothing. They have committed no crime, but the penalty they are required to pay is steep. They forfeit, too often, much of what matters to them: their homes, their safety, their public status and private self-image, their primary source of comfort and affection. Their lives and prospects are profoundly affected by the multiple institutions that lay claim to their parents—police, courts, jails and prisons, probation and parole—but they have no rights, explicit or implicit, within any of these jurisdictions.

This need not be the case. Should the rights that follow be recognized, the children of prisoners would still face obstacles and traumas. But they would do so with the knowledge that the society that had removed their parents took some responsibility for their care.

A criminal justice model that took as its constituency not just individuals charged with breaking the law, but also the families and communities within which their lives are embedded—one that respected the rights and needs of children—might become one that inspired the confidence and respect of those families and communities, and so played a part in stemming, rather than perpetuating, the cycle of crime and incarceration.



# 1

## I have the right **TO BE SAFE AND INFORMED AT THE TIME OF MY PARENT'S ARREST.**

Many children are introduced to the criminal justice system when their parent is arrested and they see her taken away in handcuffs. Most police departments do not have protocols for addressing the needs of children when a parent is arrested. The resulting experience can be terrifying and confusing for the children left behind. Some wind up in the back of a police car themselves, on the way to the first in a series of temporary placements. Others are left behind in, or return home to, empty apartments. Arrested parents often prefer not to involve public agencies in the lives of their children, out of fear of losing custody. Many children share this fear, but at the same time long for someone to notice and attend to the family vulnerabilities that can both lead to and result from a parent's arrest.

Parental arrest is by definition a traumatic event for children. But if children's well-being is made a priority, it can also become an opportunity—to assess a child's needs, offer aid in what will likely be a difficult period, and connect with and support vulnerable families.

## **RIGHTS TO REALITIES**

### ■ **Develop arrest protocols that support and protect children.**

Training police officers to understand and address children's fear and confusion when a parent is arrested is an important first step. At a minimum, police could be trained to inquire about minor children, and to rely—in the absence of evidence that to do so would place a child at risk—on the arrested parent as a first source of information about potential caretakers. This would minimize both the possibility of children being left alone, and of children entering the child welfare system unnecessarily when family members or other caretakers are available.

Keeping in mind that safety is the first priority, the following steps might also be considered when feasible:

- Avoiding the use of sirens and lights in non-emergency situations where their use is discretionary, to reduce the fear and/or shame children may experience.
- If the arrestee is cooperative, allowing her to explain to her children what is happening and say goodbye, and walking her out of sight of the children before handcuffing her.
- When it is not possible or appropriate for the arrestee to offer an explanation, having an officer take children into another room and offer them an age-appropriate explanation of what is happening and what will happen next (e.g., "Mom needs to take a time-out and we will be taking her someplace where she can do that. You have not done anything wrong. We will make sure your mother is safe, and grandma will be here to make sure you are safe.")

### ■ **Offer children and/or their caregivers basic information about the post-arrest process: where the arrestee likely will be held, how long it may take for him to be processed, and visiting hours and procedures.**

This information might be conveyed via a simple handout. Officers might also distribute a resource guide with a list of community agencies and services to children and families.

# “They arrested her and just left us there.”

*At age nine, Dave was left alone with his baby brother after their mother was arrested. Dave—who was 19 at the time of this interview—went on to foster care and then college. He never learned why his mother had been arrested, and saw her only once after the day of her arrest.*

I was nine when my mom got arrested. The police came and took her. I was trying to ask them what was going on and they wouldn't say, and then everything went so fast. I guess they thought someone else was in the house. I don't know. But nobody else was in the house. They arrested her and just left us there.

For two or three weeks I took care of my one-year-old brother and myself. I knew how to change his diapers and feed him and stuff. I tried to make breakfast in the morning and I burnt my hand trying to make toast. I had a blister.

**70%**

**70 percent of children who were present at a parent's arrest watched that parent being handcuffed**

I wasn't really afraid. I was just trying to take care of my brother. That was my goal—to take care of him. Sometimes he would cry because he probably would want to see my mom.

When my mom was there, every day we used to take my little brother for a walk in the stroller. I still did that every day, even though my mom wasn't there. Her friend across the street saw us and I guess she figured out something was wrong. She called Child Protective Services and they came and took us.

My mom did come back eventually, but by that time we were already gone. All I know is that they just rushed me in the system and that was that. They didn't tell me why I can't go back with my mom.

I was sent to a temporary foster home and my brother was in a different foster home. Then I got placed in the foster home where I live now. I've been there for about eight years.



I felt bad about being separated from my brother. I should have had visits with my brother, to at least know exactly where he was. I just prayed that he was doing OK. During that time we were split up, my mom died. So then I was really mad because my brother was the only person I had left of my family and I didn't know where he was.

I think when the police first arrested my mom, they should have looked around the house and seen that we were there by ourselves. Then I wouldn't have had to take care of my brother for that long.

**30%**

**30 percent were confronted with drawn weapons**

The police should sit down and talk with you. Explain the situation. Why, and what are the going to do with you? How long do they think your mother is going to be there? And don't just say, “She'll be out in a couple of days, we're going to put you in foster care and she'll get you back,” and then you don't never get back out. They should just be honest with you and tell you what's going on.

## Rochelle, 25

When I was seven, a lady knocked on the door, and the police came. They said, “We're going to the park and we'll be back.” At that time, I really did think I was going to the park. I sure didn't think I was going to the shelter, where they ended up putting me.

I don't think I really had an understanding about it. It was just, “My mom is gone and I'm here with these people. But I want to be with my mom right now.”

What would have helped me is talking about it. When you don't know where your mom is, it's really scary for a child. And no one was talking about it. Just, “Here's a placement for you until she gets herself together.” You don't know when

she's coming to pick you up—if she ever is going to come.

It would help to have someone there for the child who would continue to be with the child through the process. There should be some kind of task force that specializes in dealing with kids whose parents have been incarcerated. It's all about consistency. Someone there who they can call on, and continue to grow a relationship.

## I have the right **TO BE HEARD WHEN DECISIONS ARE MADE ABOUT ME.**

When a parent is arrested, children whose lives may already have left them with little sense of control often feel even more alienated from the events that swirl around them. Adults they have never met remove their parents with little explanation, then decide where children will go without consulting them. When children continue to feel unheard within the institutions that govern their lives in their parents' absence, their sense of powerlessness grows.

There are aspects of children's lives that must inevitably remain beyond their control. Children cannot choose whether or when their parents will be taken from them, nor how long their parents will be gone. But when young people are offered a voice within the systems and institutions that come to dominate their lives, they are more likely to respect those institutions, and find some sense of control and optimism in their own lives.



## **RIGHTS TO REALITIES**

### ■ **Train staff at institutions whose constituency includes children of incarcerated parents to recognize and address these children's needs and concerns.**

Any institution dealing with vulnerable youth—including schools and child care programs—will likely serve numerous children of incarcerated parents. In many cases, children do not feel able to talk about this aspect of their experience. If they express their grief instead through anger or defiance, they find themselves disciplined, labeled, and often eventually jailed. When adults are sensitive to the needs—not to mention the existence—of the children of prisoners, they are better prepared to offer support instead of stigma, and help avert this cycle.

### ■ **Tell the truth.**

Adults often try to protect children from difficult realities by blunting or concealing the truth. But children who are lied to—whether by police, social workers, family members or others—about a parent's arrest or incarceration are likely to experience heightened confusion, shame and mistrust. They are also denied the opportunity to express their own views and feelings about their family's situation. An explanation of that situation should be tailored to a child's age and level of understanding, but children deserve to be told the truth and to have their questions answered honestly.

### ■ **Listen.**

Every interaction between a prisoner's child and a representative of the adult world—be it police officer, probation officer, teacher, relative or neighbor—presents both a risk and an opportunity. If young people feel blamed or unheard—if their feelings remain hidden and their needs go unexpressed—the burden of parental incarceration grows heavier. But when adults make the effort to listen without judgment and learn from children's hard-won experience, each interaction also provides an opportunity to offer solace and encouragement.

# “What would have helped me most is compassion for my mom.”

*Ahmad, 21, was born while his mother was in prison. When he was five, his mother's parental rights were terminated and he was adopted. Ahmad reunited with his birth family at 16. He is currently attending college.*

When my mother's parental rights were terminated, I wasn't even allowed to be by her in the courtroom. But I just knew from her expression, her tears, begging the judge, what had happened. I was reaching out to her, begging, trying to have that last hug. They picked me up and just took me away. Me screaming and yelling, “Mommy, I won't be bad again.”

When I was adopted, I was totally separated from my mom and the rest of my family. They said it was for my “mental stability”—that if I continued to see my family, I would be confused. I was always taught to say nothing about it.

**3/100**

**THREE in 100 American children will go to sleep tonight with a parent in jail or prison.**

That really impacted the way I felt about myself. Was I that bad of a child? Was I that much of a problem that people don't want to take care of me? Later, I learned that it actually had nothing to do with me. It was something my mother had to battle her way through herself, and I couldn't change it.

When I was 12, my adoptive dad moved us out of state. Then one day, out of the blue, I came home from school and he said, “Your mother called.” I called her, and we were just talking like nothing is happening. It was good. Eventually, I went to find her. My whole impression growing up was that my family were drug dealers, or they were in and out of jail, but it wasn't like that. My sister was this working mom who went to college. My mom,



she's gotten over her past. She still feels the urge, but she doesn't do drugs.

I know it affected her a lot being pregnant and in jail with her baby—and after giving birth, to have to hand me over. She told me it was hard, and that the love she had for me is what kept her alive.

All the system saw was a drug-addicted mother. “The baby could do better without her.” They wanted to protect little Ahmad. Why didn't they care about his mother?

**1/8**

**ONE in EIGHT African American children has a parent behind bars.**

When there's a mother struggling with an addiction, struggling with herself, but is not abusive towards her kids, then the system has to help better that situation. Help the mother as well as the child. What would have helped me most is compassion for my mom. We have to bring the mom back, so the mom can be a mother to the child.

Me and my mom, today we have a good relationship. We argue a lot over little petty things—I didn't bring her car back on time—but we love each other. I never stopped loving her for my whole life.

## Marie, 38

When I was about five years old, my mother and her boyfriend and my uncle were all arrested. I was with them. I can recall, as I sat in the police car, one officer saying, “What are we going to do with this kid?” The other guy said, “Well, we'll just take her to the children's shelter.”

I said, “I'm not going to the children's shelter. You need to take me to my grandmother's house, or put me in a cab.” I was already living with my grandmother at that time, but they never bothered to ask me, or ask my mother where did she want them to take me.

I was very young at that time, but generally, as children, we do know what is happening.

I was terrified of the police at that time. Very terrified of what I had seen, what happened to family members, what happened to my mother. I felt I hadn't done anything wrong. It was a very frightening experience.



# 3

I have  
the right  
**TO BE  
CONSIDERED  
WHEN  
DECISIONS  
ARE MADE  
ABOUT MY  
PARENT.**

Increasingly tough sentencing laws, which have caused the U.S. prison population to increase fivefold over the past three decades, have also had a tremendous impact on children. But as it stands, sentencing law not only does not require judges to consider children when they make decisions that will affect their lives profoundly; in some cases, it actively forbids them from doing so. A more sensible and humane policy would take into account the fact that sentencing decisions will inevitably affect family members—especially children—and strive to protect their interests as much as possible without compromising public safety.

## RIGHTS TO REALITIES

### ■ Review current sentencing law in terms of its impact on children and families.

Ask the child of an incarcerated parent what might have improved his life and his prospects and you're likely to get some version of this answer: "Help for my mom." Even if they have experienced years of trauma and abandonment, young people are likely to see their parents as troubled and in need of support rather than as bad and in need of punishment.

Public opinion polls increasingly echo this view: Growing numbers of Americans favor rehabilitation and alternative sentences, particularly for those charged with violating the drug laws. But this shift in opinion has not been sufficient to reverse the growth of the prison population, which reached an historic high of 2.2 million at last count. In this context, the impact on children of unnecessary or overlong prison sentences—as well as the fiscal impact of associated costs such as foster care or welfare for caretakers—warrants serious consideration, as does the potential positive impact of a shift toward community-based alternatives to prison.

Children also deserve to have their needs taken into consideration when individual sentences are handed down. The capacity of judges to consider children should be expanded, and they should be encouraged to use the discretion they already have to protect children's interests.

### ■ Turn arrest into an opportunity for family preservation.

Parental arrest can push an already-vulnerable family to the breaking point. Reconceived, it could also be an opportunity to intervene and offer support. If questions about the existence, status and needs of dependent children became part of the intake procedure for arrestees, and efforts were made to connect them and their children with services and supports, the criminal justice system could play a role in bolstering families.

### ■ Include a family impact statement in pre-sentence investigation reports.

Parole and probation officers are frequently required by the court to prepare a pre-sentence investigation report (PSI), traditionally aimed at helping judges understand the background, and potential for rehabilitation, of those who come before them. The PSI might be adapted and expanded to include a family impact statement, which would include an assessment of the potential effect of a given sentence on children and families and recommendations for the "least detrimental alternative" sentence in this context. The PSI might also include recommendations aimed at providing services and supports to children during a parent's absence.



# “Take her away from me, now you’re hurting me.”

*Terrence, 24, spent nearly six months on his own as a teenager after his mother was arrested. Today, he is a student and a musician.*

When I was 16, the police came. They kicked the door in and took my mom to jail. They told me, “Call somebody to come watch you.” They were so busy trying to take her out, they didn’t care about me.

At first, I didn’t know when she would be coming back. Then she called and said she was in jail for possession for sale. She told me to be good and strong. Keep going. After that I just did what she said.

I had to take care of myself for almost six months while she was in jail. I cooked, cleaned, went to school. Stayed out of trouble. I never liked being in my house by myself all the time. It got lonely and it got scary.

I had 56 dollars in a piggy bank. I cracked out some money and bought some food. When the groceries got low, I did some work washing cars in the neighborhood, sold newspapers door to door. That’s what I did to survive.

**3/4**

**Nearly THREE QUARTERS of those admitted to state prison have been convicted of non-violent crimes.**

The electricity got cut off, but I still had water. Then everything got cut off. I was sitting around there in the dark. I had my friends come over and we’d sit around and talk. Go to sleep together. Wake up and go to school.

In my head I was like, “I’m going to be the man. I’m going to pay the bills. I’m going to try to do it.” But I just didn’t know what to do. I basically had to eat noodles and do what I could until Mom came home. I wanted to show Mom that I’m a man.

Around the fifth month, I ended up meeting some friends in a foster home. When I really started trippin’ off the lights being cut off and everything, I started staying over there a lot.



The foster father asked me, “How come you’ve been spending the night so much? What’s the matter?” I told him, “My mom’s in jail.” He came back with some papers and put me on emergency foster care with him.

My mom, they just put her in jail. Let her do her time. Kick her out. She’s still the same person. She didn’t learn.

The biggest solution I can think of is stop bringing the drugs to the area. Just make sure they don’t get it, somehow. If they take the liquor stores off the corner and paint all the buildings and clean the streets up, there won’t be all these guys hangin’ out, and there won’t be as much drugs.

**4¢**

**Of every DOLLAR spent on drug abuse and its consequences, only FOUR CENTS goes to prevention and treatment.**

I think they shouldn’t have took my mama to jail that first time. Just gave her a ticket or something, and made her go to court, and give her some community service. Some type of alternative, where she can go to the program down the street, or they can come check on her at the house. Give her the opportunity to make up for what she did.

Using drugs, she’s hurting herself. Take her away from me and now you’re hurting me.

## Adam, 30

Sending people to prison for victimless crimes—for abusing themselves—doesn’t really seem to produce a solution. As a matter of fact, the laws only perpetuate what they’re trying to prevent. You take somebody that’s in a bad situation and you put them in a worse situation. It doesn’t take a brain surgeon to figure out that sending people to prison only perpetuates the prison system, that they become professional convicts. You’re also sending a very bad message to their children. The message is that the law and government don’t care about the integrity of the family.

Violent criminals, rapists and

murderers should be incarcerated. But there’s so many

people stuck in there for drugs. People become convicts and then after that, if they come back out in the real world, they can’t get a job. How is that going to help them become better people? They need to be healed internally, educated mentally, and given skills physically for them to be productive people.



I have the right

## TO BE WELL CARED FOR IN MY PARENT'S ABSENCE.

When a child loses a single parent to incarceration, he also loses a home. In the most extreme cases, children may wind up fending for themselves in a parent's absence. Some will spend time in the foster care system, where 97 percent of administrators say they have no specific policy in place to address those children's needs. The majority stay with relatives, often elderly and impoverished grandmothers who may be strained personally and financially by the challenge of caring for a second generation.

## RIGHTS TO REALITIES

### ■ Support children by supporting their caretakers.

In many cases, relative caretakers receive less financial support than do non-related foster care providers—or no support at all. When a caretaker is an impoverished grandmother—as is often the case—it can prove particularly difficult for her to meet her family's needs alone. Equalizing payments for relative caregivers would be an important first step towards supporting the children for whom they care. Additional help for grandparents—including respite care and support groups—could also help sustain struggling families.

### ■ Offer subsidized guardianship.

Children deserve an opportunity for stability without being asked to sever permanently their bond with their parent. Guardianship—in which a caretaker gains most of the legal rights of a parent, but biological parents do not permanently lose their rights—is one way of providing this. If guardians were routinely offered the same level of support as are foster parents, more friends and family members might feel able to step into this role. When reunification is unlikely—as when a parent is serving a very long sentence—an open adoption can also provide both a permanent home and an ongoing connection to an incarcerated parent.

### ■ Consider differential response when a parent is arrested.

Differential response laws—now on the books in more than ten states—allow child welfare agencies to respond to families in crisis by offering support, often through referrals to community-based agencies, without opening a formal investigation. Differential response offers a promising model for how agencies might support families struggling with the incarceration of a parent. Workers could interview caregivers, incarcerated parents, and older children to determine their needs, and offer referrals to services, without the risk of sanction and long-term separation a formal investigation can trigger.

# “Am I in this world by myself?”

*Antonio, 23, spent 11 years in foster care while his mother was in and out of jail and prison on drug-related charges. At the time of this interview, he was working as a peer counselor.*

When I was four years old, my mother started doing drugs. She used to be in and out of jail, and then she started going to prison when I was seven years old. That's when we first got taken from her. Her friends took me to Social Services, dropped me off, left me there.

I've been in about 18 different group homes since then, and three or four foster homes. I don't care how bad whatever we were going through, I still wanted to be with my mom.

At the foster homes they would try to talk to me and I would say “yes” and “no.” I didn't tell them anything else, because I was so hurt about it.

One foster home I was in, I called the lady there my grandmother, 'cause she took care of me. She always made sure that I got in touch with my mom. Even if my mom was locked up and tryin' to call collect, she could call there. My grandmother knew that mattered in my life.

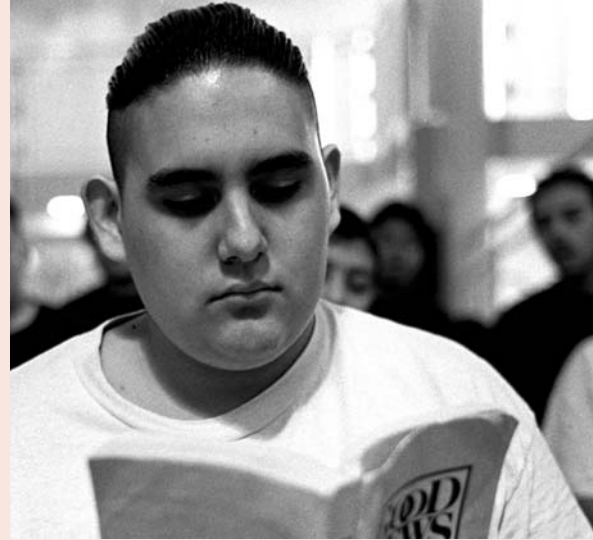
The other places, they didn't care. There was only a couple of people that I lived with that actually took me to see my mom.

In the group homes, they knew my mom was in jail and they would just tell me, “Oh, it's gonna be alright.” But they don't know how I feel because they're not going through it.

# 1/2

**HALF of all children with incarcerated mothers are cared for by grandparents.**

At school kids would ask where my mom was at and I'd say, “jail.” Some kids would be like, “Oh, that's cool.” The good ones would be like, “Oh, that's all bad. Your mom's crazy.” When Mother's Day used to come around and people would be chillin' with their mothers, kids would say, “What are you gonna do on Mother's Day? Oh, I forgot, you don't have a mother.”



## Amanda, 16

All my life my mom's been in and out of jail for stealing, drug possession, forgery. I never met my father. He's been in and out of prison too.

Since I was four, I've pretty much lived with my grandma. I used to always cry when my mom would leave. She's been in and out so many times that my heart doesn't allow me to cry any more.

I don't like telling my friends that my mom's locked up because then they're like, “Oh, well, that family's all bad. They're low class.” They'll talk behind your back.

When they see that children don't have fathers and the mothers are incarcerated, they need to give the grandmothers more financial support. My grandmother gets SSI and welfare gives her 140 dollars a month for four children. I don't know if she's going to have any

money for next month's rent. My mom's always calling from prison. My grandma's

phone bill is like 500-something right now. My grandma takes the calls 'cause she says it's her daughter.

Besides financially, I think my grandma also needs someone there for her, 'cause it's not right that she's always stuck inside the house taking care of us. She needs to get out.

# 2/3

**Nearly TWO THIRDS of children being raised by single grandmothers live in poverty.**

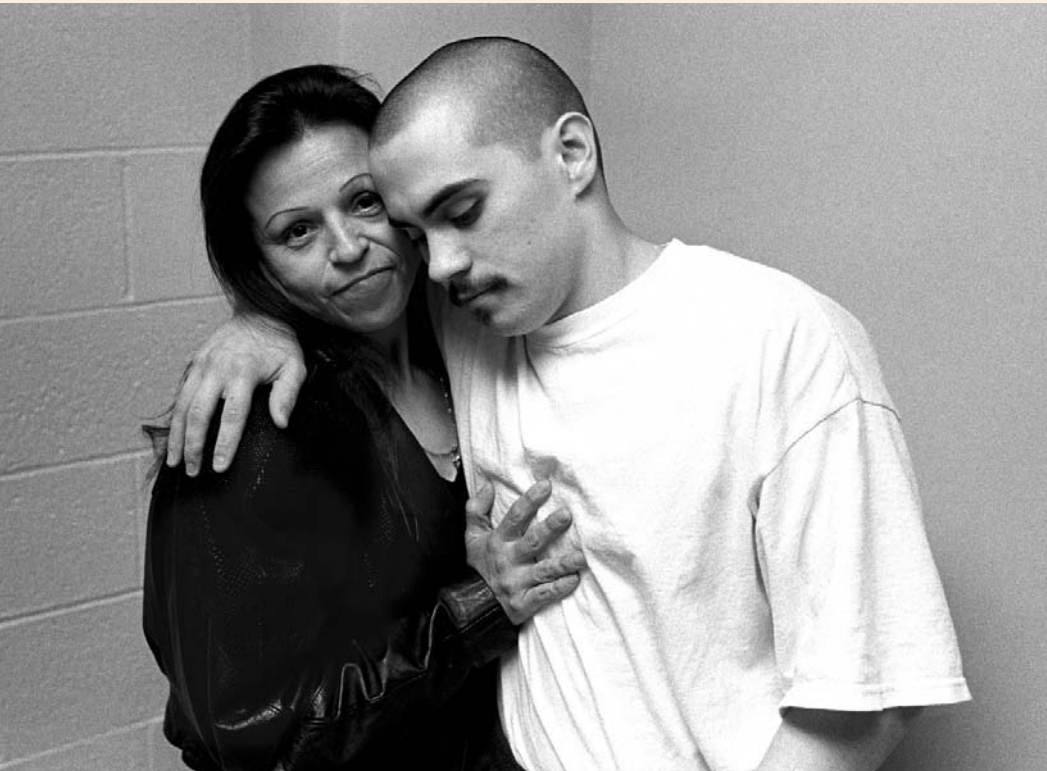
Now that I have kids, I don't know why anyone would want to leave a little precious thing like that by themselves. I don't understand why they would let that happen.

I don't care what I have to do in this world, if I have to do everything right, I will, just to make sure that my daughter gets everything that I didn't have.

I have the right

## **TO SPEAK WITH, SEE AND TOUCH MY PARENT.**

Visiting an incarcerated parent can be difficult and confusing for children, but research suggests that contact between prisoners and their children benefits both, reducing the chance of parents returning to prison and improving the emotional life of children. Because increasing numbers of incarcerated parents are held at prohibitive distances from their children, too many children are denied the opportunity for contact with their parents. In 1978, only eight percent of women prisoners had never received a visit from their children. By 1999, 54 percent had not received a single visit.



## **RIGHTS TO REALITIES**

### ■ **Provide access to visiting rooms that are child-centered, non-intimidating and conducive to bonding.**

Visiting a jail or prison is necessarily challenging for a child, but much can be done to reduce fear and anxiety and improve the quality of the experience. “Window visits,” in which visitors are separated from prisoners by glass and converse by telephone, are not appropriate for small children; contact visits should be offered except when security concerns or the nature of an offense preclude them. In facilities such as county jails where window visits are the norm, separate accommodations should be made for children. In facilities where contact visits already take place, visiting rooms should be designed with children’s needs in mind, or separate accommodations should be made for prisoners with children. Opportunities for extended contact—onsite weekend visits, summer camps, weekend furloughs—should be supported and extended.

### ■ **Consider proximity to family when siting prisons and assigning prisoners.**

Many of the prisons built in recent decades have been sited in rural counties far from the urban centers where most prisoners come from, and where most of their children remain. In the long run, this practice should be reconsidered. In the meantime, proximity to family should be a priority when decisions are made about prison assignments and transfers.

### ■ **Encourage child welfare departments to facilitate contact.**

Children in foster care—who must depend on over-extended social workers or foster parents to arrange and accompany them to visits—often have a particularly hard time gaining access to their parents. At the same time, social services departments have a legal mandate to make “reasonable efforts” to help families reunify—and regular contact is generally a prerequisite for reunification.

One option is to establish units within child welfare departments dedicated to serving children with incarcerated parents. Workers in these units would be trained to deal with prison visitation and other issues specific to this population, and could also establish long-term relationships with prison authorities in order to facilitate contact.

# “When it’s hard times, you stick together.”

*Malcolm was four years old when his mother was arrested. He lived with his grandmother until his mother was paroled nine years later.*

I really don’t remember the first couple years after my mother went to prison, but I remember that it was a long, long time that I didn’t see my mom. Then, maybe after the first couple years, we started seeing her once every month or two. My mom started finding people to drop us off and give us rides. Then it came to like twice a month.

We made the most of each visit that we had. My mom was very special about trying to give time to each little child. Like for my sister, she would sit there and braid her hair while she had her little private time to talk to her. She would try to make the three-hour visits enriching.

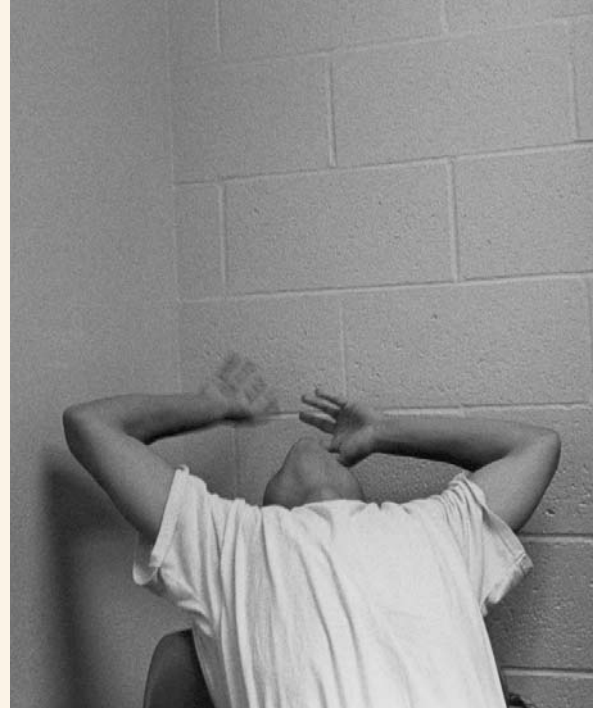
I remember she used to teach me karate. I remember her pushing me on a swing. Me showing her my muscles, even though I didn’t have any. Just me being relaxed and having fun with my mother is what I remember most. And me really realizing how much I missed her towards the end of the visit, when someone would tell us we would have to say goodbye.

I couldn’t even begin to express to you in words how fulfilling that was to my soul to give my mother a hug. For her to give me a kiss. For me to sit in her lap. If I hadn’t been able to do that, I would have felt very empty then, as a child, and maybe as well now.

6

**Prisoners who have regular visits are SIX times less likely to reenter prison than those who have none.**

I wanted her to always be in my presence—for me to always have contact with my mother. That’s what I always wanted. Me as a child, and me still, growing up.



Family is very important in my life. And I try always to indulge myself in that, after having that stripped away from me.

60%

**More than 60 percent of parents in prison are held more than 100 miles from home.**

Because I didn’t have that permanent separation—I always had contact in some form, whether it was writing or phone calls or visits, with my mother—I understand the strength of a family. When it’s hard times, you stick together. And that was just a hard time.

## Danny, 18

I remember one time, when I was 10 or 11, my father came to pick me up so I could meet my mom on Mother’s Day. He took me to a prison. I remember the prisoners were sitting at tables on one side, and we were sitting on the other, and there was a gate in between all the way down. I threw a rose over the gate.

It really messed my head up, ‘cause you can only see your mom through a gate, and that’s supposed to be your blood parent. The last thing I remember is I had to turn my back to her and leave. It was hard.

That was the last time I saw her until I was 13 or

14. If there had been some time set up where I could talk to my mom consistently on a one-on-one basis, I think my life would be completely different. Just knowing I had a mother that cared. You’re living life solo, but there’s a mother out there that you came from.



I have the right  
**TO SUPPORT AS I FACE  
MY PARENT'S INCARCERATION.**

**Children whose parents are imprisoned carry tremendous burdens.**

Not only do they lose the company and care of a parent, they also must deal with the stigma of parental incarceration, and fear for their parent's safety and well-being. Researchers who have interviewed children who have experienced parental incarceration have found them vulnerable to depression, anger and shame. One study found many showed symptoms of post-traumatic stress reaction—difficulty sleeping and concentrating, depression, and flashbacks to their parents' crimes or arrests. In the face of these difficulties, many young people will tell you that they rarely receive the support they need as they “do time” along with their parents.

## **RIGHTS TO REALITIES**

■ **Train adults who work with young people to recognize the needs and concerns of children whose parents are incarcerated.**

Any institution dealing with vulnerable youth will likely serve numerous children of incarcerated parents. In many cases, children do not feel able to talk about this aspect of their experience. If they express their grief instead through anger or defiance, they find themselves disciplined, labeled, and often eventually jailed. When adults are sensitive to the needs—not to mention the existence—of the children of prisoners, they are better prepared to offer support instead of stigma, and help avert this cycle.

■ **Provide access to specially-trained therapists, counselors and/or mentors.**

The same issues that can make counseling valuable for many children whose parents are incarcerated—repeated loss, heightened fear of authority, discomfort in institutional settings, difficulty in forming trusting relationships—can also make providing that care particularly challenging. Children need access to therapists or other supportive adults who have the experience and training to surmount these barriers.

■ **Save five percent for families.**

Each state, and the federal government, should allocate five percent of its corrections budget to support prisoners' families both during and after a parent's incarceration. This investment will likely be more than recouped via reduced recidivism and lower rates of intergenerational incarceration. In the meantime, trimming excessive sentences would produce the immediate savings to fund such an initiative.

# “There is more in the world than bad stuff.”

*Shana, 19, was adopted by her aunt and uncle as a result of her mother's addiction and repeated arrests. She was a sophomore in college at the time of this interview.*

When I was seven years old, I was taken away from my mother because she was addicted to crack cocaine. My father was never in the picture. He was in and out of jail.

Before I was taken away, my mom would get arrested sometimes and my brothers and I would be on our own. I didn't really understand what was going on, but I knew it wasn't right. Eventually, our lights, our phone, our water were all turned off. I know it's not the teachers' responsibility, but I wish they would have come by just to see how we were living. Just to see that we were on our own, in a dark room sometimes, with candles.

Finally, my older brother said, “I have to tell. I can't wash clothes. I can't cook every day. I can't do all that by myself. It's getting too hard for me.” He went to my aunt and uncle and told them the situation, and they just took me out of the house. My oldest brother went to another aunt's, and my other brother stayed with my grandmother.

# 6

**Only 6 state child welfare systems have a policy in place to address the needs of children of incarcerated parents.**

I think there should be a program to help kids cope with the fact that their mother is arrested. Therapy, to see how the child is feeling and let them know what's going on. I know I needed something.



When I was five, I wasn't in a five-year-old place. I shouldn't have been able to know what drugs smell like, to see my mom doing it. When a child is exposed to that type of stuff, you can't take it away, but you can put them back in a child's place by getting them involved in childlike things. In my community, all the resources for kids, like the rec centers, are gone or shut down or taken over by drugs.

I would have liked to go camping. Horseback riding. Rock climbing. At a young age, that's when you develop your talent. Drawing. Singing. Dancing. Acting. Something like that would shown me that there is more in the world than bad stuff. You need to know you can go through bad stuff, get out of it, and do so much more. Be so much more.

## Amanda, 16

School is hard, 'cause I'm thinking, “When is my mom going to get out?” It's hard for me to concentrate. I tell my teachers and they say, “Yeah, I understand, but you still need to do your work.” My English teacher helped me by just hearing out my problems and asking me what's wrong, how's my day. Me and her would eat lunch and discuss my problems.

My sister is 11. It affects her so much. At school she sees everyone talking about their mothers, and she just cries. Someone was teasing her at school 'cause she didn't have her mother, and she had an anxiety attack and couldn't catch her breath. They called an ambulance and she was in the hospital for a week.

I think the schools should have a daily sheet where kids can explain how they feel, or if they need someone to talk to. I don't like how for youth to get anger management, you have to get in a fight or try to kill someone. They should attack the problem before it gets to that point.



I have  
the right  
**NOT TO  
BE JUDGED,  
BLAMED OR  
LABELED  
BECAUSE  
MY PARENT  
IS INCAR-  
CERATED.**

**Incarceration carries with it a tremendous stigma.** Because young children identify with their parents, they are likely to internalize this stigma, associating themselves with the labels placed on their parents or blaming themselves for their parents' absence. As they grow older, many report feeling blamed or stigmatized by others—neighbors, peers, teachers and other authority figures, even family members—because of their parents' situation. Some try to keep a parent's incarceration secret. Many describe the shame and stigma they have experienced as the heaviest burden they carry, lasting long after a parent is released or a child grows up.

## **RIGHTS TO REALITIES**

### ■ **Create opportunities for children of incarcerated parents to communicate with and support each other.**

The shame young people experience when a parent is incarcerated is enhanced when they believe they are alone in their experience. The company of other children whose parents are in jail or prison—whether in support groups, recreation programs or summer camps—can allow young people to unburden themselves of a painful secret, learn that they are not to blame for their family's troubles, and perceive themselves as having potential.

### ■ **Create a truth fit to tell.**

"If I were the one placing a child," says Rochelle, 25, who spent her early years with a drug-addicted mother before entering foster care, "I'd say, 'Your mom is away in a place where she's going to try to get some help. For now, you'll be placed with family members, or if not, in a foster home. And I'm going to be there for you and with you.'"

If this were the truth, it would be easier to tell. If arrest meant acknowledging a problem and was followed by an attempt to solve it; if children knew they would be reunited with their parent as soon as possible and well cared for in the interim; if those who claimed custody of the parent also offered support and solace to the child, then the criminal justice system might not be so cloaked in shame and stigma that children felt compelled to hide their parents' involvement in it, and view themselves as tainted as a result.



# “It’s hard to find a sense of value if everybody tells you you’re not worth anything.”

*Early incarceration—starting with juvenile hall—marked Rachel’s mother’s life. When Rachel was two years old, her mother left her with her great-grandmother. At the time of this interview, Rachel was 21 and working as a waitress. In recent years, she and her mother have reconnected.*

When I was around six, my mother got locked up. I was already living with my great-grandmother. I really missed my mom a lot of the time. If she wasn’t locked up, she was gone doing something else.

When I was 11, I got taken away from my great-grandmother because I was deemed incorrigible and her home was deemed neglectful. After that, I was in a lot of placements. I can count ten on my hands, then some of them just blur.

**1/10**

**1 in 10 children of prisoners will be incarcerated before reaching the age of 18.**

In juvenile hall, a psychologist evaluated me and said I was nuts, basically. She said I was sociopathic. I was all types of crazy. It stuck. It’s hard to find a sense of value if everybody tells you you’re not worth anything. If you don’t feel like you’re worth it, you’re never gonna do for yourself.

My mother was sent to juvenile hall when she was a teenager. She blames that for why she started using drugs, because she met this girl that got her on drugs. My mom needed someone who cared. Someone to show her how to go to school and invest in life. Someone to take her camping, biking, to the water. She needed someone to get her out of her environment.

That’s what made a difference for me. After I was placed in foster care, I ran away a lot, and in my runnings I would hitchhike to different cities and states. Instead of letting the community make me feel like I was trapped, I completely defied it.

Even in juvenile hall, I was very optimistic. I had people that brought me books, and I’d live in my books until I could get away. I’d read about heroines that were kept in towers. I read about women who survived obstacles, and reading about survivors made me feel like one. If they could leave slavery and defy Rome, I could do it.

No matter what your mom does, she’s still a person. After a while, you realize that people screw up. You realize that your mom’s not the only screw-up. You either hold it against her and have this big old knot in your stomach, or you let it go. It feels so much better to let it go.

I was able to do that when I realized that I was probably going to go a lot farther than my mom ever went. And that I was going to take my mom with me—not physically, but in my heart. That one day I’d be able to show her something beautiful. I’m going to show my mom the door.

## Richard, 18

I grew up with other kids whose moms used drugs, so I knew I wasn’t the only one. I have a couple friends now, their moms use drugs, and we can sit down and have a conversation about it. It helps just to realize that we’re not alone, and that we can still do what we’re put here to do, ‘cause I feel everyone was put here for a reason.



I think for young people in my situation, talking amongst each other would be really good. Have an adult present in the room to help guide the conversation, but I notice that it’s better if young people talk about things amongst each other. If you and I both told a kid not to go touch that stove, it’s hot, he most likely might listen to me, ‘cause I got burned by that stove.

# I have the right **TO A LIFELONG RELATIONSHIP WITH MY PARENT.**

Abiding family bonds are the strongest predictor there is of successful prisoner reentry. For children, sustained attachments form the building blocks for successful development. But changes in child welfare law—specifically, accelerated timetables for termination of parental rights—have increased the odds that even a relatively short sentence will lead to the permanent severance of family bonds. When this happens, children are forced to forfeit the most fundamental right of all—the right to remain part of their families.



## **RIGHTS TO REALITIES**

### ■ **Re-examine the Adoption and Safe Families Act.**

Under the 1997 federal Adoption and Safe Families Act (ASFA), states must begin proceedings to terminate parental rights if a child has been in foster care for 15 out of the past 22 months—six months if the child is under three. Dependency cases involving children whose parents are incarcerated should be looked at on an individual basis, and viable families preserved, whether or not sentences exceed the ASFA timelines. ASFA should be revised to allow for such flexibility. State statute in Nebraska prohibits filing a termination proceeding “if the sole factual basis for the (termination) petition is that...the parent or parents of the juvenile are incarcerated.” This statute could provide a model for federal legislation revising ASFA.

Unless and until that happens, better use should be made of what flexibility the law already allows. Under ASFA, exceptions to the timelines for termination are permissible under two circumstances: when a court determines that “reasonable efforts” have not been made to support reunification, or that termination is not in a child’s best interest. Given the minimal efforts that are generally made to maintain contact and plan for reunification between incarcerated parents and their children—and the obstacles even the most energetic social workers face when they do try to support reunification—terminations in cases involving an incarcerated parent ought to receive automatic scrutiny under the “reasonable efforts” clause. When children enter foster care simply because of parental arrest, rather than evidence of abuse or neglect, these cases deserve careful consideration under the “best interests” clause.

At the same time, arrested parents whose children are in, or may enter, foster care should receive complete information about ASFA prior to any plea bargain that could lead to a sentence long enough to trigger the ASFA timelines.

### ■ **Designate a family services coordinator at prisons and jails.**

Incarcerated parents often have a hard time arranging visits from behind bars and fulfilling the multiple mandates required for reunification. Investing in a staff member whose job it is to facilitate contact and support reunification could result in reduced recidivism and significant child welfare savings.

### ■ **Support incarcerated parents upon reentry.**

The most basic tasks of parenting—providing food, shelter, and clothing—are made immensely more difficult by a criminal record. Beyond the challenges of finding work and re-establishing oneself after a forced absence, federal laws passed as part of welfare reform bar those with felony drug convictions from receiving public assistance. Removing felony restrictions on employment, housing, TANF and food stamps is crucial to giving struggling families a chance to rebuild.

*continued on last page*

# “Now I’m getting my mama back.”

*As a child, Mark, 18, cared for his younger siblings while his mother was in and out of jail. Later, he entered foster care and she went to prison. At the time of this interview, he was about to emancipate from a group home and was planning to attend college.*

When I was about eight, my mom started smoking crack and leaving me home late at night. Then she’d go to jail and wouldn’t nobody know I’d be at home watching my brothers and sisters the whole time.

When I was about nine, we were home alone and my little brother busted his head on a piece of wood. I had to call 911, and that’s when Child Protective Services started coming in. After that, we didn’t see my mom.

My mom’d start calling the house crying. She’d be in jail. She’d say she’s sorry, won’t do it again. She’d get out. Do the same thing. It got to the point where my mom was going to the penitentiary like that’s all she knew. But she couldn’t explain it to us—that she had a problem.

**250%**

**Appellate cases involving termination of prisoners’ parental rights have gone up 250% since 1997.**

I got to the point where I hated my mom, but that was before I understood what she was going through. See, she was lost. When we were with my mom, she knew she couldn’t pay the bills. She knew she couldn’t feed us right. She was stressin’, and the only way she could hide it was go smoke some crack. Steal something to get more crack. When we were separated, it made it worse.

One time, when I had just gotten out of juvenile hall, my mom brought me something for my birthday. I knew she was my mom, but the only time I’d felt loved was around the time when I was little—four, five, six. Now I got that little kid feeling again.

She started coming around and taking us out. Then she got locked up again. That’s when I finally understood—she needs help. ‘Cause she tried to be a mom. She just needed help.

Later on, when I was 16, we were both at my grandma’s, just visiting. I told her, “You’re disturbed. You need help.”

She burst out crying. Then the next day she sat down and told me she’s going to fix herself. The next time I talked to her, she was doing good. She put herself in rehab and got her a sponsor, and they’ve been helping her. Today, she works at the church. She’s got her own two-bedroom. And she’s clean, about two years.

**80**

**The average term being served by parents in state prison is 80 months.**

What made it happen is love from me and my family. That little piece that’s lost—it’s filled the gap there. At first I used to think my mom would be dead, but now I know she’s going to see my kids. I know she’ll see me graduate from high school, see me go to college.

I used to pray at night for a new mommy and daddy. I’d see people in magazines and go, “Oh, I wish she was my mama.” And now I’m getting my mama back.

## Malcolm, 17

I met a couple people that were in foster care. I always had that over my head—like if they say my grandma is too old to take care of us, we might be going to foster care. Whatever the parent may have done, you shouldn’t demonize or punish the child by taking the child away from everyone that he or she has loved and tearing away all values, all sense of family. That’s a crime in itself to me, and it is very saddening to me when I hear it. I have some friends from the visiting room and they were shipped away, taken away from all their loved ones. I know someone who is from the

Bay Area and his younger sisters and brothers got moved all the way to Texas, ‘cause they were adopted. The older one was over 18, so he wasn’t adopted.

I didn’t expect my mother to get out till I was 26, but she was paroled when I was 13. Because the contact I’d had with my mother was only for a couple hours at a time, it wasn’t easy when she moved back in with us. We had to get used to each other. One thing I’d really missed was her walking me to school. I remember one day when she first got out, she walked me to school. A lot of kids are ashamed that their mom’s walking them to school. I was so happy for her to be in my presence, and for the first time in my life for my mom to even come to my school, that I couldn’t care less what people thought.

*Right 8* continued:

Prison and jail family services coordinators could also develop pre-release plans for parents, and refer them to community agencies that might assist them in securing housing and employment. Probation and parole departments could establish family service units dedicated to serving clients who are working to re-establish themselves as parents.

### ■ Focus on rehabilitation and alternatives to incarceration.

The most valuable intervention on behalf of children could take place before a parent ever saw a jail cell. Diversion programs, treatment for drug addiction, and other rehabilitation-focused alternatives to incarceration could make a tremendous difference to children.

## ACKNOWLEDGEMENTS

Deepest thanks go to the children of formerly and currently incarcerated parents, and to the parents, who shared their time, stories and insights.

Thanks are also due the following, for providing introductions to young people willing and able to speak about their experience, and for their valuable work: Margaret Norris of the Omega Boys Club; Linda Evans, Dorsey Nunn and Donna Willmott of Legal Services for Prisoners with Children; Christa Gannon and Winnie Johnson of Fresh Lifelines for Youth; Jennifer Tait and Loretta Everhardt of Friends Outside of Santa Clara County; Gretchen Newby of Friends Outside; Lauren Ostbaum of Community Works; Geri Silva of Families to Amend Mandatory Minimums; Sayyadina Thomas; Alfred Perez of the Pew Commission on Children in Foster Care; Whid Medford, Amy Lemley and Deanne Pearn of the First Place Fund for Youth; Ida McCray of Families with a Future; and Shirley Melnicoe of the Northern California Service League.

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