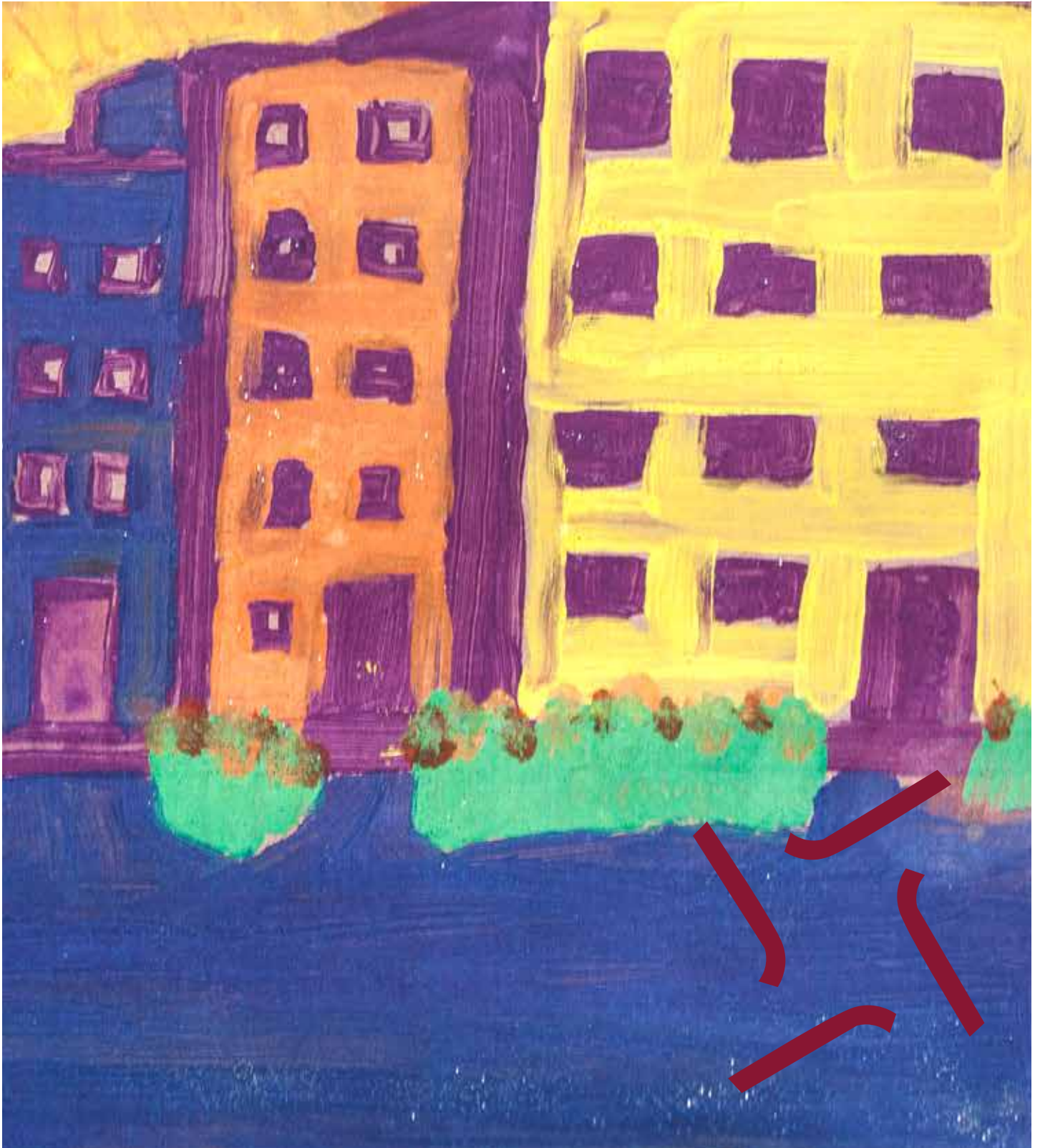




**IPRT**  
Irish Penal Reform Trust

**“Picking up the Pieces”:  
The Rights and Needs of Children  
and Families Affected by Imprisonment**



The Irish Penal Reform Trust is an independent nongovernmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort.

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Photographs: Artwork by children attending the  
Bedford Row Family Project.

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### **Who We Are**

IPRT is committed to respecting the rights of everyone in the penal system and to reducing imprisonment. We are working towards progressive reform of the penal system based on evidence-led policies and on a commitment to combating social injustice. IPRT will achieve our goals through affecting changes in policy, in practice, in law and through influencing public opinion.

### **Acknowledgements**

IPRT would like to express sincere gratitude to the children and family members affected by imprisonment who shared their experiences with the researcher. We would also like to thank the support agencies that helped facilitate this research project, as well as practitioners who gave their own insights on the effects of imprisonment for children and families. Thanks to all of the individuals who gave their time and expertise to provide critical feedback on this report.

## **Overview**

In this report the Irish Penal Reform Trust (IPRT) highlights the rights and needs of children and families affected by imprisonment in Ireland. Children and families coping with imprisonment are often described as the ‘hidden’ victims of the penal system because they must endure their own sentence, despite not having perpetrated any crime.

While many issues that children and families of prisoners experience are universal, IPRT examines the current challenges that are specific to the Irish situation. IPRT investigates these within the framework of the rights of the child and the rights of the family where Ireland has ratified, and is legally obliged to comply with, the European Convention on Human Rights 1950 (ECHR) and the United Nations Convention on the Rights of the Child 1989 (UNCRC). The key issues are illustrated in the text through interviews with children and family members, whose voices are often left unheard.

Finally, IPRT puts forth our recommendations for change.

## Recommendations for Change

### GOVERNMENT

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- An agency should be established (or the remit of an existing agency expanded) for the provision of information and support to children and families affected by imprisonment nationwide.
- A charter of rights for children of imprisoned parents that incorporates the principles of the UN Convention on the Rights of the Child (UNCRC) and a charter for families affected by imprisonment should be developed and endorsed by all criminal justice agencies.
- A Government-led inter-agency strategy for supporting children with a parent in prison should be developed. This could form part of an early intervention strategy.
- The best interests of the child should be a key consideration in proceedings where a parent may be remanded or sentenced to custody. The constitutional amendment on children's rights may provide a platform for future legislation in this regard.
- Children who are affected by imprisonment should be provided with a forum to meet other children in the same situation to reduce stigma children may feel.
- Community-based mental health supports should be available and accessible to all children affected by imprisonment when required.
- Information leaflets and support services should be available to help decide whether or not to disclose to a child his/her parent's imprisonment. Should they decide to inform the child, this service should include how best to tell them.
- An information campaign should be developed to educate the public about the impact of imprisonment on children and families.

### AN GARDA SÍOCHÁNA

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- All members of An Garda Síochána should receive specific training, and develop and adhere to professional guidelines when arresting an individual in order to minimise the impact of an arrest on the family, in particular, the child(ren).

### THE COURTS SERVICE

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- Child impact statements would be one practical approach which would permit the voice of the child to be heard, as outlined under the United Nations Convention on the Rights of the Child (UNCRC), when considering putting a parent/parents into custody.
- Information leaflets and video/audio-recordings outlining the court process should be available to inform families about the committal process. Age-appropriate leaflets should also be available for children. These leaflets should be developed by the Courts Service in consultation with families and support services and available in various public locations such as community centres and Garda stations.
- All judges should receive awareness training in the impact of imprisonment, as well as training in the rights of the family and the child.
- A service which provides trained individuals to assist and support children and families at the sentencing stage should be established.

### THE PRISON SERVICE

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#### (a) Policy

- A family strategy must be drawn up by the Irish Prison Service (IPS) in consultation with children, families and other relevant stakeholders, and implemented. This should provide for a more consistent approach in facilitating family relationships.
- The number of children with a parent in prison should be recorded by the Irish Prison Service, in order to plan services for children affected by imprisonment more effectively.
- A consultative group with children and families should be established in each prison to ensure the inclusion of children's and families' voices when deciding on what can be improved for them when visiting a parent or family member in that prison. Children and families should be consulted on all proposed changes which would affect them.

- Temporary Release should be deployed frequently for the purposes of maintaining the family relationship and for re-integrating the individual back into the family unit.

**(b) Improving Visits for Families and Children**

- Children’s Officers and Family Links Officers should be established in every prison for the purposes of providing information and support to children and families.
- Family-friendly visits should be available across the entire prison estate; at a minimum, the imprisoned person should be able to sit at a roundtable and play with his/her child as a standard visiting practice. Children’s officers (preferably non-uniformed) should be deployed in each prison to allow for visits to be child-friendly and to minimise any anxieties children may have.
- All children and family members should be able to hear and feel safe with their imprisoned family member during their visit.
- Criteria should be explicitly set out as to how to qualify for special family visits. Special family visits should be frequently available with flexible visiting times, including evenings and weekends.
- A properly staffed phone booking system across the entire prison estate is required at all times to ensure that families can book their visits without frustration.
- An electronic booking system in each prison would also allow families to book visits more efficiently. However this system should not replace the phone booking system.
- A protocol should be introduced for the use of sniffer dogs whereby: if the dog indicates the presence of drugs, the visitor should be asked to submit to a voluntary search; if no drugs are found, the visitor should be allowed to have a regular visit.
- Prison governors in each prison should take into account the best interests of the child when deciding on non-contact visits. The standard practice of screened visits in Cloverhill Prison and St. Patrick’s Institution should end.

- There should be flexibility in terms of visiting hours for children and families particularly for those travelling long distances and, in particular, for families visiting remand prisoners.

- Training and monitoring of all prison officers who are in direct contact with children and families is required.
- A standardised complaints procedure for visitors should be addressed within the newly proposed complaints model.
- All prisons should have a Visitors’ Centre.

**(c) Other Forms of Correspondence**

- Audio or video recordings of a book such as ‘Storybook Dads’ or ‘Storybook Mums’ which allow children to hear their parents tell them a story, should be extended and made available to all parents to maintain the relationship between the imprisoned parent and child.
- An evaluation is required of the current Skype pilot programme in Limerick Prison with a view to considering the expansion of the use of Skype in other prisons, particularly for foreign prisoners or prisoners whose families are abroad.

**(d) Women in Prison**

- Where it is in the best interests of the child, alternatives to custody for primary carers (who are often female) should be used.
- A Mother and Baby Unit should be established in all female prisons in line with international best practice.
- The visiting facilities in Limerick prison should provide for child-friendly visits similar to the facilities that exist in the Dóchas Centre.

**(e) Facilitating the Father-Child Relationship**

- The Irish Prison Service should facilitate the father-child relationship to a similar extent to which it accommodates the mother-child relationship in the Dóchas Centre by creating a child-friendly atmosphere across all prison visiting areas.



**(f) Transport for Prison Visits**

- The linking-up of prison visiting hours and public transport timetables is required.

**(g) Financial Costs of Imprisonment**

- A scheme similar to the Assisted Prison Visits Scheme in the U.K should be introduced in order to supplement support for low-income families affected by imprisonment.
- The linking-up of public transport and prison visiting hours is essential.
- Visiting hours should be extended and flexible.
- The proposed Incentivised Regimes Policy which reduces the prisoner gratuity should be revised taking into consideration the increasing financial burden for families.

**(h) Release/Resettlement**

- Integrated Sentencing Management (ISM) and a Community Integration Plan (CIP) for every prisoner should be implemented by the Irish Prison Service with immediate effect. Families should be facilitated in participating in this process if they desire.

**MEDIA**

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- The Press Council of Ireland, the Broadcasting Authority of Ireland and all other media institutions should ensure that all journalists are familiarised with their codes of practice in the context of the damage that can be caused to families affected by imprisonment by inaccurate reporting or by reporting which breaches codes and standards. Guidance or training may also need to be developed for the media on the rights of the family and the rights of the child.
- The media should adhere to the ethical principles – in particular, those relating to privacy and children – developed by the Press Council of Ireland with respect to families of accused or convicted persons.
- Consideration should also be given to developing a mechanism(s) whereby families can raise concerns about invasive media coverage before publication or broadcast.

**DEPARTMENT OF EDUCATION**

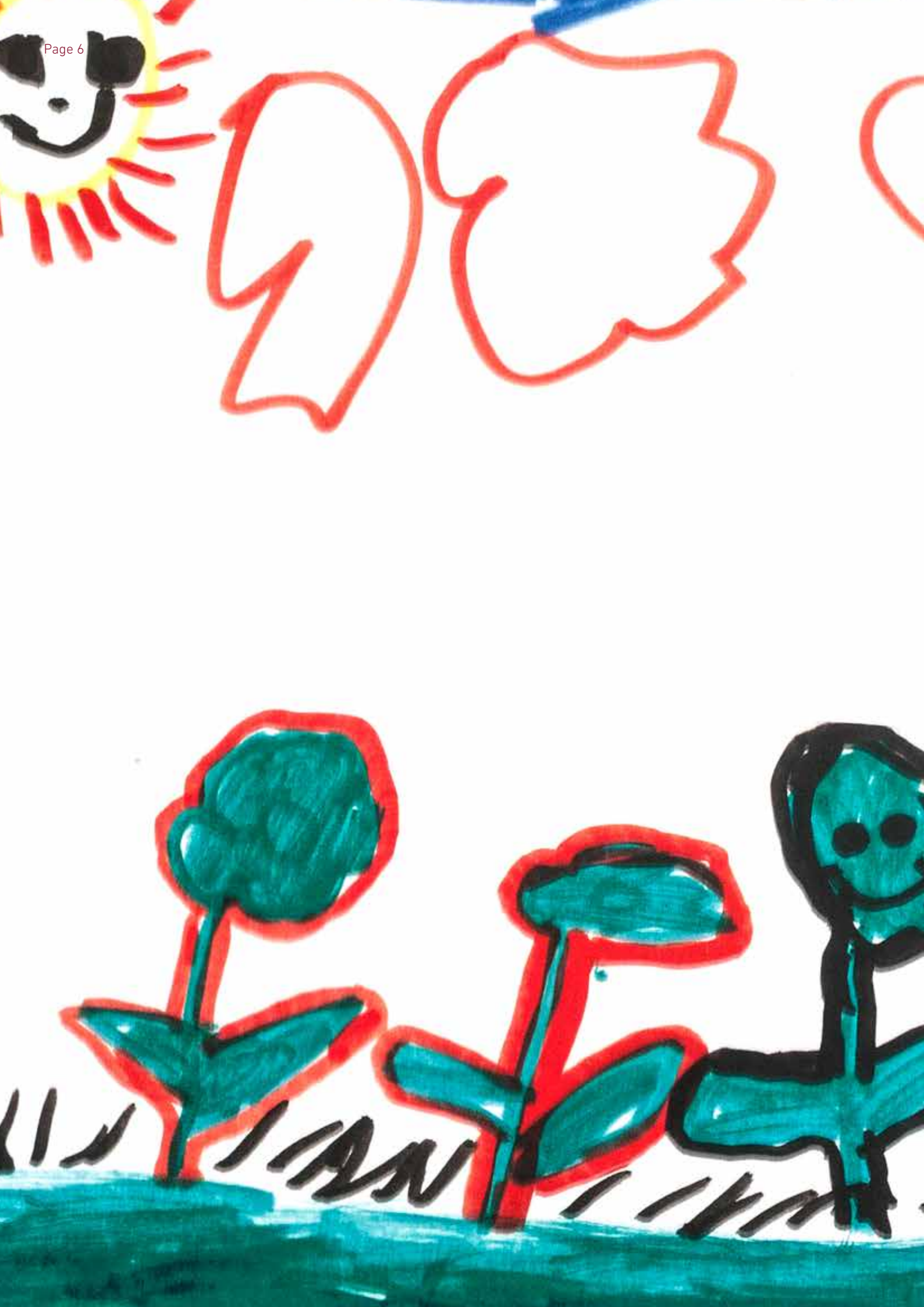
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- The vulnerability of children affected by imprisonment should be considered in the development of anti-bullying strategies in schools.
- The impact of imprisonment on children and families should be included as part of both the primary and secondary schools curriculum (for example, as part of Civic Social Political Education (CSPE)/Social Personal Health Education (SPHE) module) in order to increase awareness and lessen stigma for children and families affected by imprisonment.
- Teacher training, particularly at primary level, should sensitise teachers to the particular needs and vulnerabilities of children with a parent/parents in prison, so that they are better able to understand and constructively address any academic or behavioural problems that may arise as a consequence.

**STATE AND ACADEMIC INSTITUTIONS**

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- Longitudinal research is required on the impact of parental imprisonment on children in Ireland.
- Research should be carried out on the experiences of families of ethnic minority prisoners and of women prisoners.





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## Chapter One: Introduction

### 1.1 Contextual Background

Since 1970, the prison population in Ireland has increased by 400%.<sup>1</sup> Latest figures indicate that 4,248 individuals are currently in prison custody.<sup>2</sup> This growth in numbers has resulted in widespread problems in the Irish prison system, including chronic overcrowding and a lack of in-cell sanitation facilities which sees some prisoners continue to be subjected to the practice of ‘slopping out.’<sup>3</sup> However, challenges in the Irish prison system are not only confined to the poor physical conditions that prisoners must endure. In this report, IPRT draws attention to a subject that has received modest attention in Ireland: the ‘collateral’ effects of imprisonment on children and families.<sup>4</sup> IPRT examines this issue with a particular focus on the rights of the child under the United Nations Convention on the Rights of the Child (UN CRC), which Ireland ratified in 1992. Under the CRC all children have rights and these rights must be safeguarded by the Irish State.

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<sup>1</sup> Irish Penal Reform Trust (2011) Facts available at <http://www.iprt.ie/prison-facts-2> (accessed 12/03/12)

<sup>2</sup> House of the Oireachtas (2012) Prison Accommodation available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2012091900023?opendocument#Prison%20Accommodation> (accessed 25/09/12)

<sup>3</sup> ‘Slopping out’ is the practice where prisoners are forced to use buckets to go to the toilet in their cell.

<sup>4</sup> IPRT’s definition of a child is a person under 18 years of age. IPRT’s definition of the ‘family’ for this research is broad in scope and includes: persons who are married, persons who were co-habiting prior to imprisonment, non co-habiting partners, partners who are divorced or separated but continue to co-parent, parents, grandparents, children, siblings, aunts, uncles, nephews, nieces as well as unrelated caregivers. As part of this research prisoners and former prisoners were also interviewed to hear about their experiences of how imprisonment affects or affected the family dynamic.

Families and children are often ignored throughout the criminal justice system due to the focus on the offender.<sup>5</sup> As a result, children have been described as the "invisible victims"<sup>6</sup> of crime and the penal system. There are a variety of ways in which children and families can be affected by imprisonment including: disruption to child care arrangements, relationship breakdowns, financial loss and stigmatisation.<sup>7</sup> Therefore, it is very important to highlight that decisions on penal policy concern more than the individual within the prison system.

In the European Union, there are approximately 800,000 children affected by parental imprisonment on any given day.<sup>8</sup> The Irish Prison Service (IPS) estimates that 200,000 adult family and friends visits and 80,000 child visits occur per annum across the prison estate.<sup>9</sup> However, there is no accurate figure of the number of families, in particular, children affected by imprisonment as this information is provided on a voluntary basis to the prison.<sup>10</sup> A system to monitor the number of children affected by parental imprisonment was recommended a number of years ago in order to assist in the planning of services,<sup>11</sup> however, to date, this recommendation has not yet been implemented. The absence of this data means that little is known about the prevalence of children experiencing parental imprisonment in Ireland. Nevertheless, extrapolations by EUROCHIPS, the European Network for Children of Imprisoned Parents, suggest that the number of children separated from an imprisoned father in Ireland is approximately 4,300, while an estimated 142 children are separated from an imprisoned mother.<sup>12</sup>

There is no national organisation with sole responsibility for providing information or support to families affected by imprisonment in Ireland. Only a small number of voluntary organisations have been established for this purpose including: *Bedford Row Family Project* in Limerick and *St. Nicholas Trust* in Cork. Bedford Row Family Project was founded in 1999 by the Franciscan Friars and the Sisters of Mercy to support families visiting Limerick Prison. St. Nicholas Trust was set up in 2008 to assist families visiting Cork Prison. In 2005, the Prisoners' Families Infoline was launched, however, since June 2011, the phone line no longer operates due to funding cuts. The website and email service continues to function. Four booklets are available on the website for families including: 'Sent to Prison', 'Telling the Children', 'Preparing for Release' and 'Living with Separation.'<sup>13</sup>

Most surprisingly, no organisation has been set up for families affected by imprisonment in Dublin, despite the fact that almost one third (32.4%) of all persons committed to prison in 2011 listed Dublin as their county of residence.<sup>14</sup> There are other agencies with various functions that assist families affected by imprisonment in Dublin such as, Clondalkin Addiction Support Programme (CASP) which published a document on supporting families of the imprisoned.<sup>15</sup> Care After Prison (CAP) also provides support to families affected by imprisonment.

Only a handful of studies have been undertaken to examine the impact of imprisonment on families and children of prisoners in Ireland.<sup>16</sup> Numerous proposals

<sup>5</sup> See Robertson, O. (2007) *The Impact of Parental Imprisonment on Children* p.7 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/ImpactParentalImprisonment-200704-English.pdf> (accessed 20/08/12)

<sup>6</sup> See Marshall, K. (2008) *Not Seen. Not Heard. Not Guilty: The Rights and Status of the Children of Prisoners in Scotland*, p.4 Edinburgh: Scotland's Commissioner for Children and Young People available at [http://www.sccyp.org.uk/uploaded\\_docs/adult%20reports/not%20seen%20not%20heard%20not%20guilty%20compress.pdf](http://www.sccyp.org.uk/uploaded_docs/adult%20reports/not%20seen%20not%20heard%20not%20guilty%20compress.pdf) (accessed 08/09/12)

<sup>7</sup> See Convery U. & L. Moore (2011) 'Children of Imprisoned Parents and their Problems' in Scharff-Smith P. & L. Gampell, (2011) *Children of Imprisoned Parents*, European Network for Children of Imprisoned Parents: The Danish Institute for Human Rights.

<sup>8</sup> Scharff-Smith P. & L. Gampell (2011) *Children of Imprisoned Parents*, The Danish Institute for Human Rights.

<sup>9</sup> See Houses of the Oireachtas (2012) *Prisoner Rehabilitation Programmes* available at <http://debates.oireachtas.ie/dail/2012/07/17/00454.asp> (accessed 19/10/12)

<sup>10</sup> See King, D. (2002) *Parents, Children and Prison: Effects of Parental Imprisonment on Children*, p.2 Centre for Social and Educational Research: Dublin Institute of Technology.

<sup>11</sup> Ibid, p.51

<sup>12</sup> To view the number of children with a parent in prison across a wide variety of jurisdictions, see Rosenberg, J. (2009) *Children Need Dads Too: Children with Fathers in Prison* p.3 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/CNDT-English.pdf> (accessed 19/07/12)

<sup>13</sup> Prisoners' Families Infoline available at <http://www.pfi.ie/booklets.html> (accessed 13/03/12)

<sup>14</sup> Irish Prison Service (2012) *Annual Report 2011*, p.25 available at <http://www.irishprisons.ie/images/pdf/annualreport11.pdf> (accessed 01/09/12)

<sup>15</sup> See Harty, S. (2010) *33 Tips for Supporting Families of Prisoners*, Clondalkin Addiction Support Programme (CASP) [http://www.iprt.ie/files/Supporting\\_families\\_of\\_prisoners3.pdf](http://www.iprt.ie/files/Supporting_families_of_prisoners3.pdf) (accessed 20/02/12)

<sup>16</sup> See, Breen J. (2008) *The Ripple Effects of Imprisonment on Prisoners' Families* available at [http://workingnotes.ie/images/stories/pdf/issue57/Ripple%20Effects%20of%20Imprisonment%20on%20Prisoners\\_%20Families.pdf](http://workingnotes.ie/images/stories/pdf/issue57/Ripple%20Effects%20of%20Imprisonment%20on%20Prisoners_%20Families.pdf) (accessed 08/09/12) & King, D (2002) *Parents, Children and Prison: Effects of Parental Imprisonment on Children*, Centre for Social and Educational Research: Dublin Institute of Technology.

were made in a report<sup>17</sup> compiled by Bedford Row to help families affected by imprisonment including: a contact person for families, a pre-release preparation programme for families, family-friendly visits, child-friendly visits, training of prison staff and the establishment of an ombudsman to investigate family-related complaints. However, these recommendations have not been acted upon. The Doing Time Conference Report produced by St.Nicholas Trust recommended that more awareness of the effects of imprisonment on families was required “with a view to preventing the ostracisation of wives/partners and children by having to share the blame for the crime.”<sup>18</sup>

Regrettably, there has been little political or media attention devoted to the implications of imprisonment for children or families. Nonetheless, in Europe, there has been an increasing awareness of the rights of the family and in particular, the rights of children of imprisoned parents. A day of general discussion was held by the UN Committee on the Rights of the Child devoted to children of incarcerated parents on 30th September 2011.<sup>19</sup>

## 1.2 Families Matter

Imprisonment of a family member can have detrimental consequences for the family. Irish research has found that prisoners often claim that their families serve a sentence “as bad or worse” than their own.<sup>20</sup> International research has identified that children of prisoners have a higher statistical likelihood of ending up in prison than children of non-imprisoned parents. One study found that 65% of boys who had a father with a criminal conviction ended up offending.<sup>21</sup>

In its *Three Year Strategic Plan 2012-2015*, the Irish Prison

Service highlights the importance of family relationships for the prisoner and pledges to facilitate family support: “We will strengthen family supports to facilitate on-going contact with prisoners while in custody and their reintegration post release, with appropriate supports and programmes, with the desired outcome of improved resettlement and rehabilitation of prisoners.”<sup>22</sup>

However, very little detail has been provided on how supporting family relationships will be progressed. What is acknowledged is that positive family relationships are central in assisting the reintegration of the individual in society, for example, family/partner visits have been linked with successful resettlement.<sup>23</sup> In addition, an economic study on the Integrated Family Support Programme in the UK found that for every £1 invested in facilitating the family relationship when a person goes to prison, the taxpayer can save £11.41 in the long-term.<sup>24</sup>

## 1.3 Aims of the Report

The main aim of this report is to raise awareness of the issues experienced by children and families affected by imprisonment in Ireland. The core objectives of the report are to:

- Explore the issues experienced by children and families affected by imprisonment
- Identify if the rights of the child and the rights of the family are being safeguarded
- Highlight best practices from other jurisdictions
- Make recommendations for change to all relevant agencies and government departments

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<sup>17</sup> Bedford Row (2007) *Voices of Families Affected by Imprisonment* available at <http://www.bedfordrow.ie/research.shtml> (accessed 24/08/12)

<sup>18</sup> St. Nicholas Trust (2008) *Doing Time-Conference Report* available at <http://www.stnicholastrust.ie/support-for-prisoners%e2%80%99-families-conference-report/doing-time> (accessed 24/08/12)

<sup>19</sup> Committee on the Rights of the Child, *Children of Incarcerated Parents* available at <http://www2.ohchr.org/english/bodies/crc/discussion2011.htm> (accessed 23/10/12)

<sup>20</sup> See Brown, R. Evans, E. & S. Payne (2009) *The Social Inclusion of Prisoners, Ex-Prisoners and their families*, p.5 [http://pfi.ie/images/stories/pfi/social\\_inclusion\\_needs.pdf](http://pfi.ie/images/stories/pfi/social_inclusion_needs.pdf) (accessed 15/02/12)

<sup>21</sup> See Murray, J. & D. Farrington (2008) Effects of Parental Imprisonment on Children in M Tonry (Ed.) *Crime and Justice: A review of research* (Vol. 37, pp.133-206) University of Chicago Press: Chicago

<sup>22</sup> Irish Prison Service (2012) *Three Year Strategic Plan 2012-2015*, p.32 available at <http://www.irishprisons.ie/images/pdf/strategicplanfinal.pdf> (accessed 16/07/12)

<sup>23</sup> Niven S. & D. Stewart (2005) *Resettlement Outcomes on Release from Prison in 2003* available at <http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs/05r248.pdf> (accessed 16/10/12)

<sup>24</sup> PACT (2012) *Economic Study of Integrated Family Support Programme* available at [http://www.prisonadvice.org.uk/files/nef\\_Pact%20IFS%20Economic%20study.pdf](http://www.prisonadvice.org.uk/files/nef_Pact%20IFS%20Economic%20study.pdf) p.4 (accessed 13/09/12)









## Chapter Two: Approach

### 2.1 Approach

This report was guided by a selected literature review on families of prisoners, with a particular emphasis on the rights of children affected by imprisonment. The qualitative approach of this report is designed to give a voice to the children and families affected by imprisonment who are often provided with no forum for their concerns to be heard. The report was also informed by consultations with prisoners, families and community organisations as part of IPRT's 'Know Your Rights'<sup>25</sup> campaign, as well as informal consultations with individuals working within the criminal justice system.

Semi-structured interviews and focus groups were undertaken with children and families affected by imprisonment. Family support services were used as points of referral to access potential participants. 26 family members were interviewed for this study. Of these, 4 children actively participated in the research ranging from the ages of 6 to 16. As the topic is very sensitive, access to consult with children on this issue was limited. While parental imprisonment is a difficult subject matter to approach, IPRT believes that children affected by imprisonment should be heard with both the child and the parent/guardian's informed consent. IPRT hopes that this report will instigate more in-depth research to be undertaken with children affected by imprisonment in Ireland. There are also other gaps in this report, for example, no relatives of foreign prisoners or women prisoners were reached.

### 2.2 Ethics

It is important to comply with good ethical principles of research. IPRT examined various ethical principles produced which included the Department of Youth and Children Affairs (DYCA) 'Guidance for Developing Ethical Research Projects with Children' published in early 2012.<sup>26</sup> IPRT also consulted with the Ombudsman for Children's Office (OCO), as well as various academics and researchers from non-governmental organisations prior to undertaking the research. IPRT's own ethical policy is broadly based on the principles of: respect, safety, informed consent, voluntary participation and confidentiality.

The four main ethical principles adhered to in the report were the following:

#### (i) Informed Consent

The researcher outlined the purposes and rationale of the research to the potential participants both orally and in writing. Consent was obtained in writing from all family members who participated. Furthermore, for children, consent was attained both from the child who participated in the research and their parent/guardian.

#### (ii) Anonymity

All of the information provided in this report is anonymised. In order to protect the anonymity of all individuals who participated in the study, the gender and family status of some participants have been changed in the quotes used. This means that no information can be linked back to any individual.

It was also outlined to participants that confidentiality was limited in that confidentiality would be honoured except in circumstances where a serious risk to the child, family member or others presented itself.

All family members and children were informed that only the researcher would have access to the interviews that were recorded. All of this data was stored in a locked compartment. On completion of the report, the data collected was destroyed.

#### (iii) Voluntary Participation

All family members and children were informed that their participation was completely voluntary. This was particularly stressed to children. It was also outlined that they could choose to not answer any question or opt out of the consultation at any point.

#### (iv) Minimising Harm

In order to minimise harm, the interviews were carried out within support services. This ensured a familiar setting for most families and children. This also allowed for support workers to be present after the interview. There was another adult present during the interviews. Consultations with children were short and mainly revolved around how the experience of visiting prison could be improved for children. For family members who had not been accessed through support services, a list of the available support services was provided.

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<sup>25</sup> The 'Know Your Rights' booklet produced by IPRT in conjunction with the Irish Council for Civil Liberties (ICCL) was launched in a series of community seminars and prisons in early 2012.

<sup>26</sup> Department of Children and Youth Affairs (2012) *Guidance for Developing Ethical research projects involving children* p.1 available at [http://www.dcy.a.gov.ie/documents/Publications/Ethics\\_Guidance.pdf](http://www.dcy.a.gov.ie/documents/Publications/Ethics_Guidance.pdf) (accessed 16/10/12)

## 2.3 Family Rights and Children’s Rights

Before outlining the issues experienced by children and families in contact with the Irish prison system, it is important to outline the rights of families and the rights of children under the Irish Constitution, the European Convention on Human Rights (ECHR) and the United Nations Convention on the Rights of the Child (UNCRC).

### (i) Family Rights

The Constitution of Ireland addresses the fundamental laws of the Irish state. Under Article 41(1) of the Constitution, the State recognises the important role of the family.<sup>27</sup> However, the definition of the family in the Irish Constitution is centred on the marital family and does not adequately represent the existing family dynamics of modern Irish society. In addition, there are numerous legally binding instruments which Ireland has ratified, the most fundamental of these, the European Convention on Human Rights (ECHR), incorporates a broader definition of the ‘family.’ The right to privacy and family life is protected under Article 8:

*Everyone has the right to respect for his private and family life, his home and correspondence.*<sup>28</sup>

A variety of other Covenants also outline the importance of protecting the family unit, including the International Covenant on Civil and Political Rights 1966 (ICCPR)<sup>29</sup> and the International Covenant on Economic, Social and Cultural Rights 1966 (ICESR).<sup>30</sup>

The importance of maintaining family contact has also been outlined in the European Prison Rules 2006, which states:

*The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.*<sup>31</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners also states:

*Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.*<sup>32</sup>

Furthermore, the Committee for the Prevention of Torture (CPT) has also highlighted the importance of maintaining the family relationship:

*It is also very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding a relationship with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitation upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.*<sup>33</sup>

### (ii) Children’s Rights

In Ireland, the level of explicit constitutional protection afforded to the child is often deemed inadequate by legal experts. At the time of this report, a referendum for the inclusion of children’s rights in the Irish Constitution is due to be held on 10<sup>th</sup> November 2012. If the referendum is passed, the child’s ‘best interests’ and the ‘views of the child’ based on the level of maturity will be incorporated into the Irish Constitution. However, Ireland has already ratified the United Nations Convention on the Rights of the Child (UN CRC) in which there are various principles which Ireland has pledged to safeguard. A number of these principles have been identified as particularly relevant to children affected by imprisonment<sup>34</sup> including:

<sup>27</sup> The Irish Constitution, Article 41 (1) “The state recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedents and superior to all positive law.”

<sup>28</sup> ECHR, Article 8.

<sup>29</sup> International Covenant on Civil and Political Rights, Article 23.

<sup>30</sup> International Covenant on Social, Economic and Cultural Rights, Article 10.

<sup>31</sup> European Prison Rules 2006, 24.4.

<sup>32</sup> Office of the United Nations High Commissioner for Human Rights, *Standard Minimum Rules for the Treatment of Prisoners*, Rule 37.

<sup>33</sup> CPT/Inf 92(3) [EN] para. 51 available at <http://www.cpt.coe.int/en/annual/rep-02.htm> (accessed 19/10/12)

<sup>34</sup> For a more detailed description on how these principles are particularly relevant see Lagoutte, S. (2011) ‘The Human Rights Framework’ in Scharff-Smith, P. & Gampell, L. (2011) *Children of Imprisoned Parents*, The Danish Institute for Human Rights.

- **Non-discrimination principle (Article 2)**

Under the non-discrimination principle, States must ensure that the child is protected against "discrimination or punishment" on the basis of "status" and "activities" of the child's parents, legal guardians or family members.<sup>35</sup>

- **Best interests principle (Article 3)**

The best interests of the child should be the "primary consideration" in all decisions made by "public or private institutions, courts of law, administrative authorities or legislative bodies."<sup>36</sup>

- **Right to regular contact (Article 9)**

The child has the right to regular contact. Where a child is separated from a parent(s), he/she shall "maintain personal relations and direct contact with parents on a regular basis."<sup>37</sup>

- **Right of the child to express his or her views in matters affecting them (Article 12)**

Children should be "provided the opportunity to be heard in any judicial and administrative proceeding affecting the child, either directly or through a representative or an appropriate body."<sup>38</sup>

In the following three chapters of this report, we highlight how these rights are not being adequately safeguarded for children affected by imprisonment. From the issues arising, IPRT makes recommendations to further protect the rights of families and children affected by imprisonment.

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<sup>35</sup> CRC, Article 2. "State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

<sup>36</sup> CRC, 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."

<sup>37</sup> CRC, Article 9. "State parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests."

<sup>38</sup> CRC, Article 12 (2).







## Chapter Three: Children Affected by Parental Imprisonment

This chapter examines the issues raised that illustrate the impact of parental imprisonment on children including: telling the child of his/her parent's imprisonment, the impact of separation on the child from a parent in prison, as well as the stigmatisation and mental health needs of children affected by imprisonment.

### 3.1 Disclosure to the Child

The disclosure of a parent's imprisonment to a child is a very sensitive subject matter. Previous research conducted in Ireland found that 61.5% of parents in prison stated their child was unaware of their parent's imprisonment.<sup>39</sup> This point was further conveyed by a child of a former prisoner:

*"Within a few weeks, we started visiting a place where my Da was supposedly working. That's probably one of the reasons why children aren't talking because most parents are telling them something different."*  
(Child of a former prisoner)

During the course of this research, most children were initially told that their parent was "in the army", "a sailor", "in hospital" or "at work." However, there was a general consensus that the child knew, or eventually found out about his/her parent's imprisonment:

*"I used to say "O, he's in work." One day he [the son] was watching the news and he said to his aunt "that's where my Da is but don't tell me ma, she doesn't know." He was probably eight but he knew it was Mountjoy and was trying to protect me."* (Mother)

*"I told the kids a lot of the time "Daddy's in work" but one day my daughter says to me "Mam, if Daddy's in work, why is there always police cars outside his job?" and she's only like 7, so I knew I had to sit my kids down and be honest with them, because they're not thick...You can't hide it from kids, they're too bleeding smart."* (Mother)

*"There was no way on earth was I going to tell my daughter where her Dad was. And then as the weeks went on, I kinda realised it was probably better to be honest with her. I just shattered her world in basically five minutes, picking up the pieces now since, but I was kind of unsure whether she had an idea or not. I told her then and she had no idea. It's all questions at the moment. I did tell her, I had to tell her, probably because*

*I was afraid it would be thrown in her face and it was on the paper, and it will be on the paper. I'm not worried about the people around it, it's just the children. When I told her, I thought it was the worst mistake of my life and still a small bit of me that would say, "did I do the right thing?" because she's kind of up and down at the moment. But the biggest part of me is glad that I told her because now she can go and visit him. It's not great to be going up there like, under the circumstances, no contact like."*  
(Mother)

One guardian disclosed that the child could not comprehend why he had been lied to about his father's imprisonment, and said: "I can't understand people telling their kids lies, why would you do that?"

Children also found out about their parent's imprisonment through their peers at school or via the internet. Disclosing imprisonment of a family member, in particular, a parent, to a child is a difficult decision to make for parents/guardians. Therefore, it is important that information and support services exist nationwide to help parents/guardians make this decision.

### Recommendations:

- ➔ Information leaflets and support services should be available to help decide whether or not to disclose to a child his/her parent's imprisonment. Should they decide to inform the child, this service should include how best to tell them.
- ➔ A code of practice should also be developed for all service providers on helping families decide whether and how best to inform the child about his/her parent's or family member's imprisonment.

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<sup>39</sup> See King, D. (2002) p.53, as cited above.

### 3.2 The Impact of Separation of a Child from an Imprisoned Parent

The substantial impact of separation of a child from his/her imprisoned parent was visible in the comments made:

*“He has had no childhood with his father.”* (Mother regarding an 11-year old boy)

*“He [the child] thought he did something wrong. He’d be a real worrier. I know he felt that he had done something.”* (Mother)

*“You’ve your phone calls every day like and you get six minutes. I said to the Dad “would you deal with him?” - Don’t mind this nicey-nice business on the phone to him, like, “how are you getting on in school?” I said do it, because he feels if he does it on the phone, he’ll lose him on the phone or if he did it on a visit that he’d lose him. He’s afraid then to, to be his father like, so, where then do you go like?”* (Mother)

*“I don’t really want a special visit ‘cause I have nothing to say... ‘cause you’re on the phone before and then you’re like what’s left to say?”* (11-year old boy)

Separation may result in a breakdown of relationships between the child and parent, and causes problems in rebuilding these relationships upon release:<sup>40</sup>

*“He didn’t know my birthday, he didn’t know my favourite colour.”* (11-year old boy)

One former prisoner reported having good relationships with all of his children. However, he described himself as a “passenger” rather than a parent in his older children’s lives. This was evident in a number of cases:

*“So he wasn’t there for the older children. When he got out, he has a connection with-[the younger child]...and a bond with him. The older kids will tell ya “I hate Da.” He doesn’t know what way to be around them ‘cause he was never there, whereas he knows how to be with the youngest one as he’s been there since the beginning. He [the youngest child] will hug him every day and say “I love you Daddy”, the others, “I hate you Da.” He doesn’t know how to act around them, ‘cause he treats them like they’re babies, they’re growing up and they’re not babies and we’re getting into an argument over it.”* (Partner)

The impact of separation was further illustrated by a person with a father formerly in prison:

*“...me Dad would want a hug and kiss at the end of the visit but for me because I hadn’t been around him, I recall not really wanting to.”* (Adult child)

#### Recommendations:

- In decisions about what form of punishment is appropriate, courts should consider the impact of parental separation on the child based on the best interests principle.
- Longitudinal research is required into the impact of parental imprisonment on children in Ireland.

### 3.3 Prison Conditions for Children Visiting Parents in Prison

It was noted by many family members that the current conditions of prison visits are not suitable for children. For example, high counters in Cork Prison and Mountjoy Prison prevent small children from seeing their fathers:

*“They can’t even see over it, they won’t let them climb on the counters, they won’t let them kneel on the benches, they have to sit down on the benches. You can’t even see the child. In a way you’re speaking to the child in a bleeding Perspex screen you know. It’s not... I remember when I was there, you’d hear them talking all the time about the importance of keeping family members together blah, blah, blah but it’s like the way they have their visits is that they do the opposite of that you know. If they had some other kinda, I think if they introduced a system where prisoners who are drug free have their visits somewhere else. I’d say prisoners who weren’t on drugs would be happy to give urine samples if it meant getting proper visits with their kids.”* (Former prisoner)

Non-contact visits were having a negative effect:

*“The one thing I hate about it is that you don’t really get to hug them. You have to like lean over but like they tell ya “GET on your chair” and you have to lean in.”* (Seven-year old girl)

*“I just think it’s desperate for children. It doesn’t bother me, well it does bother me that I can’t get a kiss or hug, it’s just worse for the kids like. And then filthy*

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<sup>40</sup> Convery, U. & L. Moore ‘Children of Imprisoned Parents and their Problems’, p.20 in Scharff-Smith, P. & L. Gampell (2011) *Children of Imprisoned Parents*, The Danish Institute for Human Rights.

*dirty floors and the kids are running around on them."*  
(Partner)

*"You see small kids and they get all excited to see their dad and they try and lean over then and, do you know, the father is leaning back then 'cause he's afraid of his life because "please don't touch him" do you know."*  
(Sister)

Not being able to touch a parent in prison or properly hear what they are saying due to crowded visiting areas, is in breach of European Prison Rules<sup>41</sup> and the UN Standard Minimum Rules for the Treatment of Prisoners.<sup>42</sup>

When children were asked whether they liked visits:

*"I didn't like that people kept chatting so we couldn't really hear what Da was saying. I just kept saying yeah."*(Eight-year old girl)

*"No...I like the sweets but that's all."* (11-year old boy)

There were very positive reports regarding the existing Visitors' Centres:

*"Oh yeah I always used to go in there, that's fun. It's only like for 12 and under. I'm 13 so next year I won't be allowed."* (12-year old boy)

It is outlined under the *Resolution of the Parliamentary Assembly of the Council of Europe on Women in Prison in 2009* that all prisons should have Visitors' Centres:

*Ensure that all prisons have Visitors' Centres. Such centres may be particularly beneficial for young children.*<sup>43</sup>

Visitors' Centres exist in a number of Irish prisons. IPRT advocates that all prisons should have a Visitors' Centre. There should also be flexibility in terms of visiting hours, particularly those visiting remand prisoners.

### Best Practice Example

Children's officers are deployed in Danish prisons to ensure that the rights of children are adhered to, as well as ensuring that visits are more child-friendly.<sup>44</sup>

### Recommendations:

- ➔ **Child-friendly visits should be facilitated in all prisons. The deployment of Children's Officers could help facilitate this.**
- ➔ **Prison governors should take into account the best interests of the child when making decisions about non-contact visits.**
- ➔ **All children should be able to hear and feel safe with their parents or family members during prison visits.**
- ➔ **All prisons should have a Visitors' Centre.**

<sup>41</sup> European Prison Rules 2006, rule 24.4

<sup>42</sup> Standard Minimum Rules for the Treatment of Prisoners 1957, rule 79.

<sup>43</sup> Resolution of the Parliamentary Assembly of the Council of Europe on Women in Prison (2009), Article 12.1 available at <http://assembly.coe.int/Mainf.asp?link=Documents/AdoptedText/t09/ERES1663.htm> (accessed 23/10/12)

<sup>44</sup> See Scharff-Smith, P. & J. Jakobsen 'The Danish Case Study' in Scharff-Smith, P. & L. Gampell (2011) *Children of Imprisoned Parents*, p.103 European Network for Children of Imprisoned Parents: The Danish Institute for Human Rights.

### 3.4 Stigmatisation of Children

The stigma associated with having a parent in prison is evidenced by a child's reluctance to disclose their parents' imprisonment to their peers.<sup>45</sup> This was evidenced in the research:

*“Well they [peers] never told me anyways, like you don't have to so...”* (Six-year old boy when asked if his peers had a parent in prison and whether he had told his friends of his Dad's imprisonment)

In this research, children with a parent (or another family member) in prison were frequently teased, with name-calling and bullying common. This often resulted in the child becoming aggressive towards peers or other family members. Children felt less ashamed when they found out that peers in their school had a parent in prison:

*“She used to say “don't tell me Da's in prison at all” until 2 or 3 people in her class had their Da's locked up too and ones [people] you wouldn't expect so she could talk about it then.”* (Mother)

As outlined in Article 2 of the CRC, children have the right not to be discriminated against because of the ‘status and activities’ of their parents. It has been recommended that education programmes should be developed for civil society so that children with a parent in prison are not subject to stigmatisation.<sup>46</sup>

#### Best Practice Example

Healing circles are facilitated in some schools in the USA where children can speak with other children about their personal experiences thereby reducing the stigma associated with imprisonment.<sup>47</sup>

One of a list of recommendations made regarding the role of schools in supporting children of imprisoned parents includes to “actively seek to reduce bullying by incorporating issues around prison, crime, blame and punishment into the curriculum.”<sup>48</sup> The report also lists a number of recommendations that schools could follow to facilitate children who are affected by imprisonment including staff awareness and training on imprisonment and its effects.

#### Recommendations:

- Schools should facilitate children who are affected by imprisonment to meet other children in similar circumstances in order to reduce the stigma children may feel.
- Imprisonment and its impact on children and families should be incorporated into the primary and secondary schools curriculum as part of a CSPE or SPHE module to raise awareness and reduce stigma associated with imprisonment for children and family members.
- Teacher training, particularly at primary level, should sensitise teachers to the particular needs and vulnerabilities of children with a parent/parents in prison, so that they are better able to understand and constructively address any academic or behavioural problems that may arise as a consequence.

<sup>45</sup> See Convery, U. & L. Moore ‘Children of Imprisoned Parents and their Problems’ in Scharff-Smith P. & L. Gampell, (2011) *Children of Imprisoned Parents*: Danish Institute of Human Rights.

<sup>46</sup> Robertson, O. (2012) *Collateral Convicts: Children of Incarcerated Parents Recommendations and Good Practice from the UN Committee on the Rights of the Child*, p.52 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/201203Analytical-DGD-Report-internet.pdf> (accessed 31/08/12)

<sup>47</sup> Mason-White, H & HF. Kearney *Children of (Alleged) Offenders: Revised Draft Framework for Decision-Making* p.37-38 available at [http://www.quno.org/geneva/pdf/humanrights/women-in-prison/201203draft\\_framework\\_col.pdf](http://www.quno.org/geneva/pdf/humanrights/women-in-prison/201203draft_framework_col.pdf) (accessed 02/09/12)

<sup>48</sup> Families Outside (2012) *The Role of Schools in Supporting Families Affected by Imprisonment* available at <http://www.familiesoutside.org.uk/content/uploads/2012/10/In-Brief-7-Oct-12-1.pdf> (accessed 16/10/12)

### 3.5 Children's Mental Health

Children with a parent in prison are twice as likely to have mental health problems over the course of their life as their peers.<sup>49</sup> Previous research in Ireland identified ADHD as a significant problem for children affected by imprisonment.<sup>50</sup> In the current research, most families reported experiencing a change in their children's behaviour due to their parent/family member's imprisonment:

*"The child was, he's brilliant most of time but he would have issues with anger, impulsive anger that would get him into trouble, so it's been great the link-up between here [support service] and the school."* (Grandparent)

COPING is an EU project developed in Romania, Sweden, Germany and the UK which aims to understand the mental health needs of children with a parent in prison. The results of this study are anticipated by the end of 2012.<sup>51</sup>

The importance of family support services was illustrated by the frequent use of the words "stability" and "routine" which helped children adapt to their parents' imprisonment. Under Article 19 of the CRC, the child should be protected from any psychological or physical harm.

#### Recommendation:

- **Community-based mental health supports should be funded at a national level in order to ensure the most beneficial outcomes for children affected by imprisonment.**

### 3.6 Maintaining the Relationship between Children and a Parent in Prison

When asked about what could be improved for children affected by imprisonment, the requests from children and family members were the following:

*"I'd like that thing where Dad gets to come home for a day."* (Seven-year old boy)

*"To be able to go into a room and to be able to spend a couple of hours to get to know the children. It's so noisy in there you can't... like my three year old goes bananas when she goes up there, acting up, she doesn't relax at all."* (Partner)

*"I think if it could be in a room with a few round tables and the kids could bring in their crayons and we'd be having a chat and he'd be helping colouring in. That would be lovely."* (Parent)

*"Area where they could go out with their son, where they can kick a ball. A small area with pretend grass where they can kick a football where they have that physical release."* (Parent)

#### Best Practice Example

In Scotland, 'Extended Home Leave' allows for prisoners to be released for up to seven days a month.<sup>52</sup> This is particularly emphasised for prisoners serving longer-term sentences (those serving four years or more). Extended home leave alleviates the stresses linked to visiting prison for families. Home leaves reduce the financial burden of prison visits for families. It also allows families to adjust to living together again.

Some Danish prisons have outdoor facilities. For example the State Prison in Ringe has a playground for children visiting their parents in prison.<sup>53</sup>

#### Recommendations:

- **Child-friendly facilities should be made available and standardised across the entire Irish prison estate.**
- **A children's consultative group should be established to facilitate the inclusion of children's voices in what can be improved for children when visiting parents or family members in prison.**

<sup>49</sup> See Glover, J. (2009) *Every night you cry: the realities of having a parent in prison*. p.2, Essex: Barnados.

<sup>50</sup> Bedford Row (2007), as cited above

<sup>51</sup> See COPING *Children of Prisoners, Interventions and Mitigations to Strengthen Mental Health* available at <http://www.coping-project.eu/about.php> (accessed 02/09/12)

<sup>52</sup> See Families Outside, *Extended Home Leave: Information for Families* available at <http://www.familiesoutside.org.uk/content/uploads/2011/02/extended-home-leave.pdf> (accessed 02/10/12).

<sup>53</sup> See Scharff Smith, P. & J. Jakobsen (2011) 'The Danish Case Study' p.101 in Scharff- Smith P. & L. Gampell *Children of Imprisoned Parents*, The Danish Institute of Human Rights.



## **A Charter of Rights for Children with a Parent(s) in Prison**

In order to ensure the rights of children with a parent in prison are fully protected, a Bill of Rights was drafted in San Francisco<sup>54</sup> which includes the following:

- “To be kept safe and informed at the time of my parent’s arrest”
- “To be heard when decisions are made about me”
- “To be considered when decisions are made about my parent”
- “To be well-cared for in my parent’s absence”
- “To speak with, see and touch my parent”
- “To support as I struggle with my parent’s incarceration”
- “Not to be judged, blamed or labelled because of my parent’s incarceration”
- “The right to a lifelong relationship with my parent”

IPRT believes that a charter such as this would promote greater awareness and safeguarding of children and their rights. This charter has been recommended as a framework for guidance that states could deploy.<sup>55</sup>

### **Recommendation:**

- ➡ **A charter of children’s rights should be drawn up by the Department of Justice and Equality and the Department of Children and Youth Affairs in conjunction with children, support services and the relevant non-governmental organisations.**

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<sup>54</sup> *Children of Incarcerated Parents: A Bill of Rights* (2003) available at <http://www.fcnetwork.org/Bill%20of%20Rights/billofrights.pdf> (accessed 09/08/12)

<sup>55</sup> Donson, F. and Parkes, A., “*Changing mindsets, changing lives: increasing the visibility of children’s rights in cases involving parental incarceration*” 4 [2012] *International Family Law* 4





## Chapter Four: Families affected by the Criminal Justice Process

A number of issues were identified by families during the course of the research that extended beyond the remit of the prison system. This chapter highlights these issues which include: the treatment of family members during an arrest, the sentencing process, the intrusion of the media and the stigma associated with imprisonment.

### 4.1 Arrest

Though this research project is primarily dedicated to examining issues surrounding the imprisonment of a family member, some family members reported being poorly treated by a small number of Gardaí.

There were reports of persistent visits to houses with sinister tones used towards family members. The term "scumbag" was used in the presence of family members during the arrest, reported on more than one occasion during the course of the research. This language was deployed while in the presence of children. Incidents like this can have a profound impact on children:

*"A parent's arrest is often the first time a child comes into contact with the criminal justice system and the way the event is handled can permanently affect the child's attitudes towards law enforcement and criminal justice officials."*<sup>56</sup>

One participant highlighted that she felt her rural accent aided a positive relationship with the Gardaí:

*"I have found that once the cop, once they hear my accent, that I'm from the country, they seem to be a lot nicer to me. Once I got talking and he asked what part of the country I was from and all this, they seemed to change their tune a bit but I have found that an advantage. That's what I've found, that they do change."* (Parent)

Under Article 19 of the CRC, the Irish state must ensure that the child is protected from any physical or psychological harm or violence. In order to achieve this, a number of arrest protocols have been recommended to follow before, during and after arrest.<sup>57</sup>

### Recommendation:

- ➊ All members of An Garda Síochána should receive training and adhere to guidelines when arresting an individual in order to minimise the impact of an arrest on children and family members who might be present.

### 4.2 Pre-Trial & Sentencing

There was a vast amount of uncertainty for families at the pre-trial stage. Some individuals described being "on edge" while awaiting trial. At this stage, the family was preparing for their family member to be absent from the home while some were detained pre-trial.

As set out under the *UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)*, the government should avoid detaining suspects prior to trial:

*Pre-trial detention shall be used as a means of a last resort in criminal proceedings with due regard for the investigation of an alleged offence and for the protection of society and the victim.*<sup>58</sup>

The Resolution of the Parliamentary Assembly of the Council of Europe makes the provision to:

*ensure that women who are the sole carers of young children are not imprisoned while awaiting trial, except in circumstances where there is a real risk of offending, of absconding or of interfering with witnesses. The suspension of imprisonment during pregnancy could also be considered.*<sup>59</sup>

Under Article 12(1) of the CRC, it states that all children should be able to express their views on matters affecting them. Hence, when a decision regarding the sentencing of a carer is made, this should be weighed up against the requirement of considering the best interests of the child.<sup>60</sup>

<sup>56</sup> Robertson, O. (2007) *The Impact of Parental Imprisonment on Children* p.15 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/ImpactParentalImprisonment-200704-English.pdf> (accessed 20/08/12)

<sup>57</sup> Ibid, p.9

<sup>58</sup> *UN Standard Minimum Rules for Non-Custodial Measures*, Article 6(1).

<sup>59</sup> *Parliamentary Assembly, Resolution 1663 Women in Prison* available at <http://assembly.coe.int/Mainf.asp?link=Documents/AdoptedText/t09/ERES1663.htm> (accessed 24/09/12)

<sup>60</sup> See Donson, F. & A. Parkes "Changing mindsets, changing lives: increasing the visibility of children's rights in cases involving parental incarceration" 4 (2012) *International Family Law* 4



## Recommendation:

- **The best interests of the child should be a key consideration when remanding a parent or carer to prison.**

Article 3 of the CRC is significant in terms of considering forms of punishment of the carer at the court stage:

*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.*<sup>61</sup>

In South Africa, in the case of *S v M* [2007]<sup>62</sup> where a single mother of three had been convicted of fraud, the court held that attention should have been given to the interests of her children during the sentencing process. Sachs J believed that the regional court had passed sentence without giving sufficient attention to section 28 (1)(b)<sup>63</sup> and Section 28(2)<sup>64</sup> of the Constitution regarding the impact on the children of sending M to prison. This failure was also evident in the High Court. It was found that the High Court should itself have made the appropriate enquiries as to what arrangements would be made to ensure the best interests of the children. He concluded that the children, community and victims would be better served by placing the woman under correctional supervision and thus upheld the appeal.

### Best Practice Example

Child Impact Statements would allow for the best interests of the child to be considered when sentencing a parent/guardian.<sup>65</sup> These statements would allow for the child to be considered prior to any decision being made<sup>66</sup> and would offer a practical mechanism in which the child's voice could be heard.

## Recommendations:

- **In all actions concerning the child, including the sentencing of a parent, the court should be obliged to ensure that the best interests of the child are taken into account.**
- **All judges should receive training in children's and family rights.**
- **A forum should exist to facilitate the inclusion of the child's voice such as the consideration of Child Impact Statements in the courts when considering placing parents in custody.**

The moment of sentencing was also significant to families involved in the research. For example, the most basic things such as “being offered a cup of tea” after the sentence was imposed were identified as being fundamental:

*“They're gone, they're taken down the courtsteps and you're standing on your own. No one to turn to, no one to talk to, no one.”* (Parent)

*“There's nothing in the courtrooms to help families.”* (Sister)

## Recommendations:

- **Information leaflets and video/audio-recordings outlining the court process to families should be available in the courts (along with age appropriate information leaflets for children).**
- **A service which provides trained individuals to assist and support families at the sentencing stage should be established.**

### 4.3 Lack of Information

Families reported that there was a notable absence of information throughout each stage of the criminal justice

<sup>61</sup> CRC, Article 3 (1).

<sup>62</sup> See South African Legal Information Institute, [2007] ZACC 18 available at <http://www.saflii.org/za/cases/ZACC2007/18.html> (accessed 11/10/12)

<sup>63</sup> Every child has the right to family care or parental care, or to appropriate alternative care when removed from the family environment.

<sup>64</sup> A child's best interests are of paramount importance in every matter concerning the child.

<sup>65</sup> For more information on this topic, see 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*, p. 17 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/201203Analytical-DGD-Report-internet.pdf> (accessed 25/10/12)

<sup>66</sup> Ibid.



process particularly the imprisonment period. Families reported not being told about the transfer of their family member to a different prison until they arrived on a subsequent visit. In some circumstances, prisoners were transferred to other prisons when major family life events were taking place, such as childbirths as well as serious illnesses, without the family being informed:

*"His Mam rang to see if he could be escorted for the birth of his child and when she rang them, she learned that he had been sent down to [another prison]. I couldn't believe this."* (Partner)

Under the European Prison Rules (EPR) 2006, it states:

*Prisoners shall be allowed to inform their families immediately of imprisonment or transfer to another institution and of any serious illness or injury they may suffer.*<sup>67</sup>

There were cases reported where prisoners were not allowed to be present for the births of their children or funerals of close family members. Under the EPR it states:

*Whenever circumstances allow, the prisoner should be authorised to leave prison under escort or alone in order to visit a sick relative, attend a funeral or for other humanitarian reasons.*<sup>68</sup>

Under the CRC:

*[The] State party shall upon request, provide parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. State parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.*<sup>69</sup>

### Best Practice Example

In Northern Ireland, Family Link Officers are deployed in every prison.<sup>70</sup> When a person is sent to prison, the details of the family are provided by prison staff to a family links worker who will make contact with the family within two days.<sup>71</sup>

In 2012 a US conference for families affected by imprisonment established a Prison Family Bill of Rights<sup>72</sup> which includes: the right to be respected and treated with dignity, the right to be involved in sentencing management, the right for consistency in the enforcement of prison rules with particular regard to prison visits, and the right to be informed promptly about the death of a loved one.

### Recommendations:

- ➔ **A Family Links Officer should be established in every prison to ensure that all families receive information and support.**
- ➔ **A charter of rights for families affected by imprisonment should be established.**

### 4.4 Media Intrusion

Intrusion by the media was reported to the researcher. This included, for example, attempts to take photographs of family members, while on the way into court. There were also incidents outlined where members of the media followed families to their front door, as well as persistent phone calls being made in an attempt to attain interviews with family members at what was an already distressing time:

*"I was actually followed in the toilet in the court. He actually followed me into the toilet."* (Partner)

*"I had to put a restraining order out on them."* (Mother)

<sup>67</sup> European Prison Rules 2006, Rule 24.8

<sup>68</sup> European Prison Rules 2006, Rule 24.7

<sup>69</sup> Convention on the Rights of the Child, Article 9.4

<sup>70</sup> Lewis S., Bates S. & S. Murray (2008) *Children of Prisoners: Maintaining Family Ties* p.42 available at <http://www.scie.org.uk/publications/guides/guide22/files/guide22.pdf> (accessed 09/08/12)

<sup>71</sup> Ibid, p.41

<sup>72</sup> Prisoner's Family Conference, *Prison Family Bill of Rights* available at <http://prisonersfamilyconference.org/prisoner-family-bill-of-rights> (accessed 26/10/12)

The Press Council of Ireland's Code of Practice states:

*Journalists and photographers must not obtain, or seek to obtain information and photographs through harassment unless their actions are justified in the public interest.*<sup>73</sup>

Article 8 of the European Convention on Human Rights (ECHR) ratified by Ireland highlights that all families are entitled to private life. Furthermore, under the ethical code of practice of the Press Council of Ireland, it states:

*Sympathy and discretion must be shown at all times in seeking information in situations of personal grief or shock. In publishing such information, the feelings of grieving families should be taken into account.*<sup>74</sup>

This standard should also be applied within the context of families affected by imprisonment too. The guidelines also make a statement in relation to children where it states under article 9.2:

*Young people should be free to complete their time at school without unnecessary intrusion. The fame, notoriety or position of a parent or guardian must not be used as a sole justification for publishing details of a child's private life.*<sup>75</sup>

There was also a sense that the media exaggerated or fabricated details of court cases:

*"The papers mixed up their words. That wasn't said in court but just to make their story more exciting."*  
(Partner)

Under the Press Council of Ireland's Code of Practice, it states:

*Newspapers and magazines shall strive to ensure that court reports (including the use of photographs) are fair and accurate, are not prejudicial to the right to a fair trial, and that the presumption of innocence is respected.*<sup>76</sup>

There was a great sense of shame leading to many individuals not being able to look at the newspapers:

*"I couldn't look at them at the time, I just felt like most people were great but I heard there was stuff, but I couldn't read it or I still haven't read it."* (Mother)

*"I was thinking, 'do they know?' Because you're afraid they're judging you, because I did."* (Mother)

The issue of the media and its impact on the employment of family members was also emphasised:

*"And then the press putting stuff on the papers and the impact that has on families and their jobs."* (Mother)

### Recommendations:

- The Press Council of Ireland, the Broadcasting Authority of Ireland and other media organisations should make sure that all journalists are familiar with and adhere to their codes of practice in the context of the damage that can be caused to families affected by imprisonment through inaccurate reporting or through reporting which breaches codes and standards set out. Guidance or training may also need to be developed for the media on the rights of the family and the rights of the child.
- The media should adhere to the ethical principles (in particular those relating to privacy and children) developed by the Press Council of Ireland with regard to the families of the accused or convicted persons.
- Consideration should also be given to developing a mechanism(s) whereby families can raise concerns about invasive media coverage before publication or broadcast.

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<sup>73</sup> Press Council of Ireland (2012) Code of Practice, Privacy Principle 3.3 available at <http://www.presscouncil.ie/code-of-practice.150.html> (accessed 08/10/12) For further information on how to make a complaint about members of the media, contact the office of the press ombudsman, see <http://www.pressombudsman.ie/office-of-the-press-ombudsman/contact-us.1214.html> (accessed 25/10/12)

<sup>74</sup> Ibid, Principle 5.3

<sup>75</sup> Ibid, Principle 9.3

<sup>76</sup> Ibid, Principle 7

## 4.5 Stigma

The stigma attached to having a family member imprisoned was patent:

*"The thing I feel about the whole imprisonment is shame and embarrassment. I haven't even told me family. I had huge shame and embarrassment and I used to go down to that court hoping I wouldn't meet anyone I know and explain why I'm here – but the dogs on the streets know what's going on."* (Mother)

*"It's more the reaction of somebody, you know if you're talking to on the phone, is the reason I don't bring it up. I told one friend about it that I've known for years that's it really... not totally supportive in the way that I kind of expected but wasn't shocked by it. Just maybe wasn't as much there for me as I kinda expected him to be."* (Mother)

Another family member drew attention to the shame families of individuals who have committed serious crimes must feel while others sit and await their relatives' cases:

*"Some of the evidence was very personal but the impact on the family, all the evidence was being read out in a public court, his poor family, the cries of them. I didn't want to be listening, I felt I shouldn't be hearing that, you know it's a public place but some of it is very personal stuff."* (Mother)

Local media coverage can also have the effect of stigmatisation through court 'round-ups'<sup>77</sup> where family members highlighted the embarrassment of having their relative's name in the local newspaper. Stigma was further pronounced by the great sense of criminalisation and punishment felt among family members:

*"You know common courtesy, we're not all criminals, we're not all bad people..."* (Mother)

*"Obviously you do the crime you do the time, but we're getting punished, as well as the kids."* (Partner)

## Recommendation:

- ➡ An information campaign should be developed to educate the public about the impact of imprisonment on children and families.

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<sup>77</sup> See Marshall, K. (2008) *Not Seen. Not Heard. Not Guilty: The Rights and Status of the Children of Prisoners in Scotland*, p.14 Edinburgh: Scotland's Commissioner for Children and Young People.





## Chapter Five: Issues of Concern for Families Visiting Prison

This chapter identifies the various prison issues families encountered. When asked about proposals for change to the prison system, families did not ask for substantial changes. This was due to an acceptance that certain routines must remain the same, particularly in relation to preventing drugs entering the prison system. Outlined below are the issues identified by families and IPRT's recommendations for change.

### 5.1 Inefficiency of the Visitors' Booking System

In Ireland, all visitors, including family members, must book their visits to prison in advance. The lack of access to the booking system was an issue consistently identified by families throughout the research:

*"Ringing up to book visits [in Mountjoy] is a joke. I actually have to pre-book me visits because if I try to ring over the phone I never get an answer. I never, never, once got an answer. It's a joke." (Partner)*

*"The biggest problem I have with visits is trying to get a visit, trying to book. They've introduced a card system [in the Midlands Prison] where you can fill out a card but like my partner works so I have to see when he's off because he's the driver. So sometimes it ends up we don't see him [son] for two weeks. If you know when you're going to book the cards are handy, they're not handy for people who can't read or write. The only other system is the phone. [Once] I tried for two days and then I couldn't give the 24 hour notice and when I got through I was talking to the chap and said "I've been trying to get through for the past two days" and he says "yeah, there's been something wrong with the phones." (Mother)*

A question was raised in the Dáil regarding the "lengthy periods before being cut off" from the telephone in Mountjoy prison, the Minister responded with the following:

*"The Deputy will appreciate that there is a significant demand on available resources at this time which are further constrained by the security needs in a prison setting. This issue has nevertheless been highlighted with the Governor who has given an undertaking to prioritise resources in this area where possible."<sup>78</sup>*

A piloted electronic booking system is currently operating for Cloverhill Prison and Castlereagh Prison. Once assessed,

if the pilot is working effectively, the Irish Prison Service anticipates that an electronic booking system will be rolled out to all prisons. While IPRT welcomes the roll out of an electronic booking system, this should not replace the telephone booking system.

### Recommendations:

- A properly staffed phone booking system is required at all times in order to ensure that families can book their visits without frustration.
- An electronic booking system in each prison would also allow families to book visits more efficiently. However this system should not replace the phone booking system.

### 5.2 Rigorous Search Procedures

Former prisoners commented that the rigorous search procedures implemented since approximately 2007 (due to a clampdown on drugs) had discouraged family members from visiting prisons. One participant partially attributed a riot which broke out in Mountjoy prison to how family members, particularly the elderly, were being treated:

*"People's grannies being put through the airport security, being told to take your shoes off, being man-handled. People's families were being degraded coming into visit family members. People felt that they were in prison." (Ex-prisoner)*

*"Wouldn't put her through the routine of Mountjoy you know." (Ex-prisoner)*

The search procedures were particularly frightening for children:

*"She was terrified of the dog jumping up on her. She wanted to be under my arms but they wouldn't allow her." (Mother talking about her young daughter)*

Family members on the outside felt a clear sense of criminalisation:

*"And you're treated like you have got something on ya." (Sister)*

<sup>78</sup> Department of Justice, Equality and Defence (2012) *Prisoner Visits* available at [http://www.kildarestreet.com/wrans?id=2012-06-06.2612.0](http://www.kildarestreet.com/wrans?id=2012-06-06.2612.0http://www.kildarestreet.com/wrans?id=2012-06-06.2612.0) (accessed 13/08/12)



*“I go through the security as if I’m guilty because of the fear in me. Because I’m frightened, is it going to go off?”*  
(Mother)

*“They found something, first off my nephew had buckles on his jeans and that’d be setting the thing off so they weren’t letting him go without a screened visit. Then, my son, the dog was acting as if it was sniffing something off him so we were definitely getting a screened visit, so either that or I could have gone in on my own. So you know clearly we had nothing on us, so clearly this was not working because one of my son’s friends went in last week and the same thing happened to him, he had to have a screened visit.”* (Mother)

The issue of bras setting the metal detector off was also raised. This has led to additional costs, with the inconvenience for women having to buy what was described as a “prison bra.”

*“I went through the metal detector and it went off again, it was me bra. I had to go to buy a bra for visits. No wire or nothing. When the metal detector went off, I refused to go on the screened visits because they were accusing me of doing something wrong and I had done nothing wrong.”* (Mother)

Family support services were so accustomed to this problem that they were considering buying bras for female visitors to ensure that women could not be refused entry from a visit.

Under the European Prison Rules (2006) it states:

*Persons being searched shall not be humiliated by the searching process.*<sup>79</sup>

### Recommendation:

- IPRT recommends that all search procedures for children and families should be carried out in a humane and dignified manner.

## 5.3 Refusal of Visits due to Sniffer Dogs

One of the most common issues raised by family members was being refused an open visit due to the

dog “sitting down”. As a result, families were offered a screened visit or alternatively, the family member had to leave and rearrange the open visit for another day. There was a general consensus by all concerned that dogs were making mistakes too frequently. The rejection of open visits confused and angered family members:

*“The same day, the Prison Links worker, the same dog sat down for him. This dog was real old.”* (Sister)

*“The dog sat down, they reckon it may have been if they were sitting on the chairs, this child was so upset [seven year old child] that he won’t go into the Visitors’ Centre. Now someone has to stay outside with the child until they’re called in.”* (Grandparent)

*“I’ve watched women taking bags of clothes, money, women travelling coming from the arsehole of Kerry to get to Cork to get refused. There would be a smell on their clothes and then they would have to do a u-turn. It really does depend on the prison officer that might be nice, but they’re totally devastated then getting no visit. No explanation only that the dog said no, end of story.”*  
(Partner)

Research in the United States indicates that the most significant problem associated with the use of sniffer dogs involves their “extremely sensitive olfactory sense”<sup>80</sup> and that the sniffer dog lacks the sophistication to distinguish between someone who has been in contact with drugs and someone carrying drugs.<sup>81</sup>

The number of false detections was identified as an issue during this research:

*“If someone enters the Visitors’ Centre and sits beside someone that has drugs on them suddenly their visit is gone.”* (Former Prisoner)

Consultations carried out with prisoners in a number of prisons indicated that twenty to thirty visits were being rejected on the same day.

A number of interviewees alleged that the dog handler can control if an individual gains access to a visit:

*“If they don’t like you, they can jerk on the dog and you don’t get in.”* (Partner)

<sup>79</sup> European Prison Rules 2006, Article 54 (4).

<sup>80</sup> Reinhart, H. (1996) Drug Detecting Dogs, *The Advocate*, Volume 18, Issue 1 available at <https://www.ncjrs.gov/App/publications/Abstract.aspx?id=168771>

<sup>81</sup> Ibid.

### Recommendation:

- A protocol should be introduced whereby, if the dog indicates the presence of drugs, the visitor should be asked to submit to a voluntary search and if no drugs are found, the visitor should be entitled to a regular visit.

### 5.4 Poor Prison Visiting Conditions

In the majority of Irish prisons, the physical environment is poor. Many prisoners did not want their families visiting due to the surroundings:

*"The prison environment, you're conscious and uneasy, there's something not natural about it." (Partner)*

Currently, there are difficulties with visits in prisons regarding hearing other people's conversations:

*"Sometimes it can be very loud, hard to talk, hard to hear each other talking and that." (Aunt)*

The lack of privacy for adults and the difficulties in having private conversations in visiting rooms due to noise and overcrowding have been previously identified in Ireland.<sup>82</sup> The element of safety during visits, in particular for children was also conveyed during the research:

*"There'd be brawls on the visits. Their nerves are gone. That's why my kid stopped going." (Partner)*

Visiting times for visiting prisons should be flexible, in particular for those visiting remand prisoners as under the Irish Prison Rules, remand prisoners are only entitled to a 15 minute daily visit for up to four days a week. This is very short for families travelling long distances.

### Recommendation:

- Every prison should ensure that all family members can speak with, hear and feel safe with their relative during their visit.
- Visiting times for visiting prisons should be flexible particularly for families visiting those on remand.

### (i) The Impact of Screened Visits

The visiting facilities in Cloverhill Remand Prison were mentioned as unfair:

*"A sentenced person in Mountjoy can hug their mother but an untried prisoner in Cloverhill will not be allowed to have any physical contact." (Former prisoner)*

As outlined under the Irish Prison Rules 2007, the decision of screened visits is made at the discretion of the governor:

*he/she may allow physical contact between a prisoner and a visitor when he/she is satisfied that such contact will not facilitate the entry into prison of controlled drugs or other prohibited substances.<sup>83</sup>*

However, as already highlighted, in some prisons there is a complete ban on physical contact between prisoners and their families, including Cloverhill Remand Prison and St Patrick's Institution for Young Offenders. The ban on contact visits in Cork Prison (as well as the general poor prison visiting conditions) was previously highlighted by the CPT:

*"The visiting arrangements in Cork Prison are totally unsuitable. Up to 12 prisoners were placed shoulder to shoulder on one side of a wide table running the length of the room communicating with two or three visitors each on the other side of the table. The table was fitted with glass partition (some 15cm high) and conversations were conducted with raised voices as visitors and prisoners competed to be heard; the resulting cacophony of sound can easily be imagined. Prisoners were forbidden to have any physical contact with their visitors, including with children. Those who defied the ban were subject to a disciplinary punishment. Such a systematic ban on physical contact between prisoners and their families, in particular their children, is unreasonable, given the search procedures in place."<sup>84</sup>*

The European Prison Rules state:

*Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of*

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<sup>82</sup> Bedford Row (2007) as cited above

<sup>83</sup> Prison Rules 2007, Section 36, 7 (b)

<sup>84</sup> Report to the Government of Ireland on the Visit to Ireland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 January to 5 February 2010, Strasbourg: Council of Europe, 10 February 2011, par. 99, p. 48.

*good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.*<sup>85</sup>

Under Article 9.3 of the Convention on the Rights of the Child:

*“State Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.”*<sup>86</sup>

### Recommendations:

- The standard practice of screened visits for all prisoners in Cloverhill Prisons and St. Patrick’s institution as well as the general rule of non-contact visits that exists in some prisons should be prohibited.
- Children and families should be allowed more privacy with the person in prison on visits.

### (ii) Family Visits

It was a common remark that prison visits were not “normal” or relaxed, with many family members and prisoners indicating that they would rather not have visits because of this. Special family visits occur in a private room where the family is alone together in the presence of a prison officer. These visits are also referred to as ‘box’ visits. Children and family members who had accessed them described it thus:

*“The special visit is good ‘cause we can hug him. There’s not loads of people really talking so people can actually hear ya.”* (Seven-year old girl, when asked if she preferred a family visit or regular prison visit)

*“It was a little more comfortable but there was a screw there listening to everything you say whereas at least on normal visits they can’t hear the conversation with all the noise.”* (Partner)

### Recommendations:

- The use of special family visits should be increased as this would facilitate the maintenance of family relationships during imprisonment.
- The visiting times for special family visits should be flexible and available at evenings and weekends.
- Criteria should also be explicitly set out regarding how to qualify for special family visits.

### (iii) Denial of Family Visits as part of Discipline Punishment for Prisoners

Some participants reported that family visits were being denied over a substantial period of time. It was noted that if a prisoner misbehaved, visits from the family would be refused for a period of three to six months. This practice punishes the child and the family as well as the individual in prison.

The rejection of family visits seemed commonplace, with ambiguity surrounding why these visits were being refused:

*“I won’t see him for 6 or 7 more weeks ‘cause he’s on punishment.”* (11-year old boy)

*“He’s on punishment, they gave him only a phonecall for his [son’s] birthday.”* (Partner)

Evidence to further substantiate the denial of family visits is furnished in the recently published Inspector of Prisons Report on St Patrick’s Institution.<sup>87</sup> This is in direct contravention of the European Prison Rules, which states:

*Punishment shall not include a total prohibition of family contact.*<sup>88</sup>

### Recommendation:

- IPRT calls on the use of family visits as a disciplinary sanction to be prohibited.

<sup>85</sup> European Prison Rules 2006, 24.2

<sup>86</sup> CRC, 9.3.

<sup>87</sup> Office of the Inspection of Prisons (2012) *Report on an Inspection of St Patrick’s Institution by the Inspector of Prisons Judge Michael Reilly*, p.46 available at <http://www.justice.ie/en/JELR/Appendix%20A%2005.10.pdfFiles/Appendix%20A%2005.10.pdf> (accessed 16/10/12)

<sup>88</sup> European Prison Rules 2006, 60.4

## 5.5 Correspondence: Phonecalls and Letters

Families' experiences of other forms of correspondence were the following:

*"And you know the awful thing is you know, you're in the middle of saying something and then it's just cut off, it's gone." (Partner)*

*"Letters are read, and you know, what do you put in a letter then?" (Partner)*

Conversely, other families found filling time an obstacle with the absence of any meaningful conversation with the person in prison:

*"The reality is filling the six minutes [telephone calls], 30 minutes [prison visit] in an awkward situation and he's whispering because he can't talk about anything in prison. You can't ask him about anything but that's where he is and that's what he's doing. It's not a real conversation, it's all sweetness and light." (Mother)*

Currently, there is a piloted Skype programme in Limerick prison.<sup>89</sup> Jabber, another form of voice-over-internet service, is available from Southill Outreach Offices in Limerick.<sup>90</sup> This is an innovative and contemporary form of communication for prisoners to keep in touch with their families, particularly, for those whose families are living abroad. An evaluation of these pilot programmes is required, with consideration of extending these programmes to other prisons.

### Best Practice Example

A number of countries, including some prisons in Ireland, run 'Storybook Dads' and 'Storybook Mums' audio and dvd recordings which allows parents/guardians to record a story for their child.<sup>91</sup>

## Recommendations:

- **Creative initiatives including audio/video recordings of a book such as 'Storybook Dads' and 'Storybook Mums' should be extended and made available to all parents in all prisons so that children can hear their**

parents tell them a story in order to maintain the child-parent relationship.

- **An evaluation is required of the current Skype and Jabber piloted programmes in Limerick Prison with a view to expanding these programmes to other prisons.**

## 5.6 Interaction between Prison Officers and Families

While it was consistently acknowledged by families interviewed for this report that most prison officers were professional and courteous, there were also reports of negative attitudes by a minority of prison officers where guards intimidated and belittled families:

*"It makes such a difference when staff are civil to you. Some class you as the same as who is in prison, do you know, "you're a low life", they paint you. We must be all the same." (Mother)*

Feelings of anxiety arose during visits with family members watching to see if the prison officer was "alright." There were signs of confusion, particularly for children, where one week, the imprisoned parent was allowed to hold and cuddle his/her child and exchange sweets, and the next week he/she was not. This would often result in upset and rows on the visits. It was characterised by one family member as being made clear that the "power was on one side."

As part of the newly proposed complaints model of the Inspector of Prisons, a standardised complaints procedure should exist for all visitors including families and children visiting prison.

On 11th July 2012, Maureen O'Sullivan TD questioned the Minister for Justice and Equality on the training provided to prison staff for dealing with families of prisoners. The Minister's response was that "area specific training" was provided for, as well as the drafting of a Dignity at Work charter where the "programme highlights the requirement to treat all members of the prison community, including visitors, prisoners' families, staff and management with dignity, respect, courtesy and in a professional manner."<sup>92</sup>

<sup>89</sup> This information was provided by the Irish Prison Service.

<sup>90</sup> Ibid.

<sup>91</sup> For more information see <http://www.storybookdads.org.uk/page34.html> (accessed 25/10/11)

<sup>92</sup> Houses of the Oireachtas (2012) *Prison Staff* available at <http://debates.oireachtas.ie/dail/2012/07/11/00152.asp#N2> (accessed 13/08/12)



## Recommendations:

- **Training and monitoring of all prison officers is required in order to ensure that children and families are dealt with in a professional and courteous manner.**
- **As part of the newly proposed complaints model, a standardised complaints procedure should be available for all visitors including families and children.**

## 5.7 Babies and Children Staying with their Mothers in Prison

More women who are imprisoned and who have children are likely to be the sole carer of a child than male prisoners.<sup>93</sup> Under the Irish Prison Rules 2007, a child can be admitted to the prison to remain with his/her mother up until the age of 12 months.<sup>94</sup> In Ireland, there are no statistics available on the number of children whose mothers are in prison. While provision for mothers with babies is available in the Dóchas Centre, there are no plans to provide such facilities at Limerick's female prison.

It proved particularly difficult to access children of imprisoned mothers during the research. This may partially be attributed to the lower numbers of women among the prison population. However, there has been an increase in the number of women committed to prison, comprising 13.6% of individuals committed in 2011<sup>95</sup> with the majority serving relatively short sentences. The majority of female prisoners are held in the Dóchas Centre, with the remainder detained in Limerick's female prison, which means that maintaining meaningful family contact is difficult for families living outside of these two areas.

Under the Resolution of the Parliamentary Assembly of the Council of Europe on Women in Prison, it recommends that states should:

*Ensure that mothers in custody are placed in prisons within a reasonable distance and travelling time of their families.<sup>96</sup>*

The Inspector of Prisons<sup>97</sup> has published a *Standards of Inspection in Ireland Women's Prison Supplement* which highlights best practice in relation to women who are pregnant, who have babies and/or children, and includes that:

*A clear and comprehensive child protection policy shall be in place in all women's prison where mothers and babies are accommodated.<sup>98</sup>*

Furthermore, the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* outline best practice for women who are pregnant or have babies and/or children in prison. Rule 64 suggests that imprisonment should only be used as a last resort for pregnant women and women with dependent children:

*Non-custodial sentences for pregnant women and women with dependent children shall be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or the children, while, ensuring that appropriate provision has been made for the care of such children.<sup>99</sup>*

In addition, the Parliamentary Assembly of the Council of Europe Recommendations (2009) advises:

<sup>93</sup> Townhead, L. (2006) *Women in Prison and Children of Imprisoned Mothers*, p 8 available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/WiP-Recent-UN-developments-200603.pdf> (accessed 21/08/12)

<sup>94</sup> Section 17(2) Irish Prison Rules 2007

<sup>95</sup> Irish Prison Service (2012) *Three Year Strategic Plan 2012-2015*, available at <http://www.irishprisons.ie/images/pdf/strategicplanfinal.pdf> (accessed 16/07/12)

<sup>96</sup> Parliamentary Assembly (2009) *Women in Prison*, 9.1 <http://assembly.coe.int/Mainf.asp?link=Documents/AdoptedText/t09/ERES1663.htm> (accessed 24/09/12)

<sup>97</sup> Inspector of Prisons (2011) *Standards for the Inspection of Prisons in Ireland-Women Prisoners' Supplement* available at <http://www.inspectorofprisons.gov.ie/en/10P/Standards%20for%20the%20Inspection%20of%20Prisons%20in%20Ireland-%20Women%20Prisoners%20Supplement.pdf/Files/Standards%20for%20the%20Inspection%20of%20Prisons%20in%20Ireland-%20Women%20Prisoners%20Supplement.pdf> (accessed 18/07/12)

<sup>98</sup> Ibid, p.11

<sup>99</sup> United Nations General Assembly (2010) *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)*, p.22 available at <http://www.ihra.net/files/2010/11/04/english.pdf> (accessed 18/07/12)

*The overwhelming majority of female offenders with young children should be managed in the community while a more humane approach must be found to those few mothers of young children who have committed serious crime.*<sup>100</sup>

Where babies are imprisoned, the European Prison Rules 2006 recommends:

*36.1 Infants may stay in prison with a parent only when it is in the best interests of the infants concerned. They shall not be treated as prisoners.*

*36.2 Where such infants should be allowed to stay in prison with a parent special provision shall be made for the nursery, staffed by qualified persons, where the infants shall be placed when a parent is involved in activities where the infant cannot be present.*

*36.3 Special accommodation shall be set aside to protect the welfare of such infants.*<sup>101</sup>

IPRT advocates for alternatives to custody to be used for primary carers, who are often women. The Irish Prison Service is currently developing a strategy to divert women away from prison "through greater use of community supports and interagency co-operation."<sup>102</sup>

### Recommendations:

- Female offenders with children should have their sentences managed within the community.
- However in the small number of cases where a custodial sentence is the only appropriate sanction, a Mother and Baby Unit should be established to cater for those women who are either pregnant or new mothers at the time of their committal.
- Similar facilities and visiting conditions should be provided in Limerick's female prison to those that exist in the Dóchas Centre.

## 5.8 The Need to Better Facilitate Relationships between Children and Fathers in Prison

There was an emphasis on the differential treatment between how the relationship of an imprisoned mother and her child was facilitated in the Dóchas Centre, in comparison to the relationship between an imprisoned father and his child in various Irish prisons. Services that encouraged father and child relationships have been cut, for example, the CONNECT<sup>103</sup> Project previously operated a Father's Day every six weeks for approximately a year.

In the Dóchas Centre for female prisoners, there are approximately 12 roundtables and a small play area for children visiting. This is in stark contrast to visiting conditions in most of the male prisons:

*"You and your visitors are sitting there and it's like there's one or two screws sitting there but they don't bother with you, they don't harass you, don't be looking at you and saying you don't be leaning over the counter."*  
(Partner describing the conditions of the Dóchas Centre)

There are no child-friendly visits within the vast majority of male prisons. Fathers can apply for a 'box' visit. However, these visits have been described as a "bit more private and harder to get." The importance of facilitating the father-child relationship was recently highlighted in a Scottish report:

*If we are to respect the rights of children to meaningful contact with both parents, where this is in the child's interests, then we should be looking at improving policies and practices across the prison service generally to ensure that children's relationships with their fathers is recognised as much as their relationships with their mothers.*<sup>104</sup>

### Recommendation:

- All prisons should have similar visiting facilities to those which exist in the Dóchas Centre.

<sup>100</sup> Parliamentary Assembly Council of Europe (2000) *Mothers and Babies in Prison*, Doc 8762.pt.2 available at <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc00/EDOC8762.htm> (accessed 22/10/12)

<sup>101</sup> *European Prison Rules 2006*, Rule 36

<sup>102</sup> See Irish Prison Service (2012) *Three Year Strategic Plan 2011-2015*

<sup>103</sup> The CONNECT project was run by the Irish Prison Service to create an individualised personal plan for each prisoner.

<sup>104</sup> Scotland's Commissioner for Children and Young People (2008) *Not Seen. Not Heard. Not Guilty*. p.18 available at <http://www.crin.org/docs/notseen.pdf> (accessed 25/10/12)

- **The Irish Prison Service should facilitate the father-child relationship to a similar extent to that of the mother-child relationship in the Dóchas Centre, with improved visiting facilities and a more-child friendly environment across all prisons.**

## 5.9 Financial Costs

Imprisonment of a family member produces further disadvantage where many people affected by imprisonment already come from the poorest socio-economic backgrounds.<sup>105</sup> At present, there are no specific state financial supports to facilitate prison visits for families in Ireland. Families of prisoners are entitled to apply for the *One Parent Family Payment*, which replaced the former *Prisoner's Wives Allowance*. To qualify as a prisoner's spouse/civil partner, the other spouse/civil partner must have been sentenced to a term of imprisonment or detention of at least six months. This payment is discretionary and means-tested. 'Exceptional needs' payment exists in which a single payment may be provided for expenses which an individual "cannot reasonably be expected to meet out of their weekly income,"<sup>106</sup> however this payment is not intended to assist families exclusively for prison visits.<sup>107</sup>

It has also been highlighted by the Minister for Justice and Equality that prisoners and their families are entitled to apply for assistance to the Prisoner Assist Fund Programme:

*Prisoners, or their families, may be eligible for consideration for assistance from the Prisoner Assist Fund, on hardship grounds.*<sup>108</sup>

The issue of finance was brought up mostly by family members (in particular those who had children) who had to travel long distances to visit their family member. For example, the cost of a train ticket from Limerick to Dublin is approximately €50, with additional outlay to get buses to and from the prison. It was highlighted that if visitors were late by five minutes, despite travelling great distances, they could be refused entry. This was particularly severe for families travelling from remote parts of the country.

In a few cases, it was reported that it would take more than three hours for families to make the prison visit and the costs attached to this averaged at €100 a week between fuel and food costs. In addition to these financial costs, partners provided money to the individual in prison. It was also reported that if families received financial assistance, it was almost never enough to cover transport costs. Many families travelled a whole day to make a 30 minute visit. This often required a day off work which deepened the financial burden.<sup>109</sup>

The inconvenience of travelling to prisons, especially if using public transport, deters many families from visiting:

*"And it's too much effort to go on a visit when we don't have a car or when you're late by a minute they won't let you in. And then you have to sit on the bus back. It's an hour away and an hour back."* (12-year old boy)

The linking up of public transport timetables to prison visiting hours (and vice versa) is required in order to facilitate visits. In some cases, prisoners received no visits from family members because of this. There were also inconvenient times for special family visits which occurred during working hours. These times can be particularly difficult for families when children are attending school, especially if the prison is far from the family home.

Visiting the open prisons of Shelton Abbey in County Wicklow and Loughan House in County Cavan places much financial hardship on families. Families of remand prisoners (who are allowed 15 minutes every day between Monday and Friday) making shorter and more frequent visits find the issue of time, distance and transport all the more challenging.

In addition, mothers of prisoners were particularly burdened and felt shame at having to provide financial assistance to their adult children:

*"Things like clothes, things that I normally wouldn't have been buying him especially when you're on a tight budget, you know with the way wages have gone and that as it is you don't expect to have to payout for one of*

<sup>105</sup> Breen, J. (2008) p.61, as cited above

<sup>106</sup> Department of Social Protection (2012) *Exceptional Needs Payment* available at [http://www.welfare.ie/EN/OperationalGuidelines/Pages/swa\\_exneeds.aspx#4](http://www.welfare.ie/EN/OperationalGuidelines/Pages/swa_exneeds.aspx#4) (accessed 24/09/12)

<sup>107</sup> See Donson, F. and Parkes A., "Changing mindsets, changing lives: increasing the visibility of children's rights in cases involving parental incarceration" 4 (2012) *International Family Law* 4, p.3.

<sup>108</sup> See House of the Oireachtas, *Prisoner Gratuity Payments* available at <http://debates.oireachtas.ie/dail/2012/07/17/00447.asp> (available 16/11/12)

<sup>109</sup> Ibid.

*your adult children."* (Mother)

*"This is another thing, he's an adult and I still have to support him and dress him. I have to make sure he has everything he needs. We have to leave in the money every week to keep him dressed. Petrol is quite expensive."* (Mother)

The reduction in the prisoner gratuity as part of the newly proposed Incentivised Regimes Policy<sup>110</sup> by the Irish Prison Service will further add to the financial burden on families. Under the Incentivised Regimes Scheme, prisoners attain different levels of reward depending on their behaviour and engagement with services. The prisoner gratuity was previously a daily allowance of €2.35 which is mainly spent on toiletries. However, as part of the Incentivised Regimes Policy introduced this year, there are three rates for prisoners: basic (€0.95), standard (€1.40) and enhanced (€2.20).

### Best Practice Example

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In the UK, the Assisted Prison Visits Scheme provides a right to financial support for families on low incomes.<sup>111</sup> An individual can claim for a visit every 14 days. The maximum number of visits this scheme covers is up to 26 in one year.<sup>112</sup>

### Recommendations:

- **A scheme similar to the Assisted Prison Visits Scheme in the U.K should be introduced in order to supplement support for low-income families affected by imprisonment.**
- **The linking-up of public transport and prison visiting hours is essential.**
- **Visiting hours should be extended and flexible.**
- **The proposed Incentivised Regimes Policy which reduces the prisoner gratuity should be revised taking into consideration the increasing financial burden for families.**

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<sup>110</sup> Incentivised Regimes Policy means that the daily allowance depends on the level of engagement with the Irish Prison Service.

<sup>111</sup> Ministry of Justice, *Information for Families HMP Full Sutton January 2011*, p.3-5 available at <http://www.justice.gov.uk/downloads/contacts/prison-finder/10004C83InformationforFamiliesJanuary2011.pdf> (accessed 08/09/12)

<sup>112</sup> Ibid.





## Chapter Six: Family Support and Inclusion of Families in Sentence Management

### 6.1 Family Worries

Despite all the hardships placed on families, the primary concern was always on the safety of his/her family member in prison:

*"This is constant everyday, wondering if he's okay. With all the stories you hear about prison, you never know what is going to happen to him in prison."* (Mother)

*"I don't know where all this is going to end and it worries me."* (Parent)

One of the major concerns for families was how their family member was being treated and the the lack of basic human rights:

*"Is there really any care for prisoners or are they just looked at as not worth caring about?"* (Mother)

*"Some are forced to piss in a chamber pot in front of others. That is degrading, no matter what your crime is."* (Partner)

*"I found that one of the weeks earlier in there, there was no staff to take in clothes for him so...my daughter went in to hand in clothes, there was no staff there to take them or we couldn't leave them in which again would leave him without clean clothes, which again is against anyone's basic human right to have clean clothes to wear... So they were short staffed or whatever, I don't know."* (Mother)

### 6.2 Importance of Family and Support Services

While many individuals were apprehensive of engaging with support services, those who did had strong and positive views about their experiences as well as the importance of family support:

*"If this goes, the community...well I'll be on the telly...what chances do kids have if they close this down? If they closed this down one or two years ago, I would just be gone. It is the only support for families."* (Grandmother)

*"It gave me the courage to tell my son."* (Partner)

*"I know my brother will never be in there again, do you know from the support we've gave him and what he's been through like."* (Sister)

Some agencies that dealt with families affected by imprisonment also highlighted the need for training around the impact of imprisonment for children and families.

#### Recommendation:

- An agency should be established, or an existing agency expanded, tasked with ensuring that information and support services are made available to all families affected by imprisonment. Existing agencies that deal with families who are affected by imprisonment should receive specialised training on the rights of family and the child and the impact of imprisonment on children and the family.

### 6.3 Sentence Management and Release

Sentence management and the post-release period were seen as critical by family members:

*"It's like, you know, if they want the prisoners to be well psychologically, there should be more family visits, friend visits and whatever you know."* (Mother)

*"No one ever linked in with him, we're still waiting for them to link in"* (Sister)

*"It's very difficult for a parent to come up and visit a child if he's not showing any emotion at all. There should be a bit more support by the prison where families are included, that there should be some sort of family connection to the sentence plan."* (Aunt)

When asked about what could be improved for families, responses often centred on helping the individual imprisoned:

*"That there would be more rehabilitation for the person. And that they had more room for kids. You must be imprisoned for 6 months before a special visit."* (Partner)

Family involvement in the resettlement process would help make prisoners more truthful in dealing with their offending behaviour.<sup>113</sup> The importance of a release plan was identified as vital by most family members, in particular for communities where high levels of unemployment existed. The inclusion of families in sentence planning may help in minimising the lack of clarity surrounding the individual imprisoned and worries upon release.

### Best Practice Example

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‘Family transition circles’ are deployed in the United States to allow children, an imprisoned parent/carer and/or other family members to meet and discuss the harm caused as well as making plans on how the parent child relationship can be facilitated in the future.<sup>114</sup>

In Northern Ireland, Barnados has developed a ‘Parenting Matters’ Programme. As part of this programme ‘Preparing for Release’ allows more individuals to be prepared for release; in a survey 95% of participants felt more secure about returning to family life.<sup>115</sup>

### Recommendation:

- **IPRT advocates for the development of Integrated Sentencing Management and a Community Integration Plan for every prisoner. Families should be facilitated in participating in the process if desired.**

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<sup>113</sup> Social Exclusion Unit (2002) ‘Families’ in *Reducing Re-Offending*, p.113, London: Social Exclusion Unit.

<sup>114</sup> See Building Community Through Arts and Education, *Family Transition Circles* available at <http://communityworkswest.org/index.php/rgc/52-ftc> (accessed 25/10/12)

<sup>115</sup> Barnados (2009) *Supporting prisoners’ families*, p.7 available at [http://www.barnados.org.uk/supporting\\_prisoners\\_families.pdf](http://www.barnados.org.uk/supporting_prisoners_families.pdf) (accessed 20/09/12)

## Chapter Seven: Conclusion

The recommendations in this report, if acted upon, can improve the lives of children and families affected by imprisonment. A strong commitment by the government is essential to ensure that the rights of children and families affected by imprisonment are safeguarded. One approach would be to establish a charter of rights for children and for families affected by imprisonment.

The lack of information and support for children and families throughout the criminal justice system highlights the need to establish an agency (or expand the remit of an existing agency) to help families affected by imprisonment at a national level.

The report also concludes that it is important to raise awareness on the impact of imprisonment for children and families among various cohorts such as schools and in the media for the purposes of reducing harm and minimising stigma associated with imprisonment. Raising awareness of the impact of imprisonment among all criminal justice professionals should be encouraged.

With particular regard to prison policy, the Irish Prison Service requires a clear strategy to be developed and implemented that respects the rights of children and families affected by imprisonment. This policy should be consistent across the entire prison estate. The void of information and absence of children and family support services could be addressed through the designation of Children's and Family Officers. Visiting conditions should be child-friendly across all prisons, and visiting hours

should be flexible to facilitate families, particularly those travelling long distances. Other forms of correspondence should be facilitated, as well as the deployment of Temporary Release on a more regular basis for the purposes of maintaining family ties. There is also a particular need to facilitate and foster the relationship between fathers and their children. This relationship is often neglected.

A structured release plan is essential to adjust and strengthen family relationships when a person returns from prison.

Where possible, IPRT recommends that, where it is in the best interests of the child, alternatives to custody should be used.

The recommendations as set out in this report should be reviewed and addressed to ensure that the rights and needs of children and families affected by imprisonment are respected for the benefit of children, families, communities and society as a whole.





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