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Our Partners





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The Parenting Experiences of Mothers in Conflict with the Law

Megan Capp¹

Abstract: *This paper discusses the experiences of mothers in conflict with the law. It highlights the complex challenges they face in meeting their parenting obligations while going through a criminal justice process. It also considers the realities of stigma that both they, and their children, experience. Each stage of the criminal justice process from arrest to reintegration is considered and the barriers these mothers experience are discussed. Practical suggestions are made regarding the actions that various criminal justice actors can take to support mothers in meeting their parenting obligations, maintaining the parental bond and mitigating harm to the child.*

Having a parent facing an arrest or criminal sanctions is generally a significant and traumatic experience for children. They face immediate disruption to their day to day lives, due to circumstances beyond their control. The parents now find themselves in the unique situation of attempting to maintain connection with their child and fulfilling their parenting obligations while going through the various stages of a criminal justice process.

Family situations of parents in conflict with the law vary considerably (for example, due to number and age of children, presence of other caregivers, child custody arrangements, children's special needs, etc.). In many cases, parents coming into conflict with the law have already had repeated interactions with the criminal justice system. Without the appropriate support, numerous factors make it very difficult for them to actively care for their children. This paper focuses on the parenting challenges encountered by individuals facing criminal accusations, or sanctions, and the impact this experience typically has on their children. Recognizing these barriers, this paper then offers practical suggestions and guidance on how criminal justice stakeholders at each stage of the process can best protect these children and support mothers in meeting their parental obligations.

Both mothers and fathers encounter similar challenges when coming into conflict with the law, with the impact on children being significant regardless of which parent is involved with the justice system. Mothers, however, are most often the children's primary caregiver,

¹ The author would like to thank the Elizabeth Fry Society of Greater Vancouver, Archway Community Services, and Ms. Susan Bhatti for their support in accessing mothers for consultation.

and sometimes the only caregiver. Children whose mothers are incarcerated often suffer more significant disruption due to the impact on their day to day lives. For example, when a child's father goes to prison, their mother usually continues to care for them as before, but when a child's mother goes to prison, the child is often forced into a new living situation (which can include moving schools and losing access to friends). Due to this reality, this paper focuses mainly on the challenges that confront mothers facing a criminal sanction. Because data is not collected in Canada, we do not know the exact number of how many women in conflict with the law are mothers, but we can assume that the percentage is quite high² with some advocates suggesting most women in prison are mothers.

Vulnerabilities of Women in Conflict with the Law

The contexts in which women commit crimes are predominantly tied to trauma, sexual exploitation, mental illness, substance use, or deep poverty. These issues intersect significantly with the over-representation of Indigenous, Black, and racialized women, and particularly, single parenting women.

Women in conflict with the law are more likely than their male counterparts to be diagnosed with a mental illness³ or substance misuse issues⁴. Women offenders are also more likely to have had an extensive trauma history⁵. In Canada, for example, a study of a sample of inmates from four Ontario prisons showed that 38% of the women studied reported a traumatic brain injury, often occurring before they committed their first offence⁶. An unfortunate reality is that many women in conflict with the law have had life experiences marred with childhood abuse, sexual abuse, substance misuse, and neglect.⁷ They are also likely to have experienced poverty and various forms of social

² For example, a 2016 survey in a female prison in Ontario found that 82% of respondents had been pregnant at some point in their lives (Liauw et al., 2016).

³ Fazel, Seena, Adrian J Hayes, Katrina Bartellas, Massimo Clerici and Robert Trestman, "Mental health of prisoners: prevalence, adverse outcomes, and interventions", *Lancet Psychology* Sept 3, no.9 (2016): 871-881.

⁴ Fazel, Seena, Isabel A Yoon and Adrian J Hayes, "Substance use disorders in prisoners: an updated systematic review and met-regression analysis in recently incarcerated men and women", *Addiction*, 112, no.10 (2017): 1725-1739.

⁵ Moloney, KP, BJ van den Bergh and LF Moller, "Women in prison: the central issues of gender characteristics and trauma history", *Public Health*, 123, no.6 (2009): 426-430.

⁶ Colantonio, Angela, Hwan Kim, Stefan Allen, Mark Asbridge, Josian Petgrave and Serge Brochu, "Traumatic brain injury and early life experiences among men and women in a prison population", *Journal of Correctional Health Care*, 20, no.4 (2014): 271-279.

⁷ Bodkin, Claire, Lucie Pivnick, Susan Bondy, Carolyn Ziegler, Ruth Elwood Martin, Carey Jernigan and Fiona Kouyoumdjian, "History of Childhood Abuse in Populations Incarcerated in Canada: A Systematic Review and Meta-Analysis", *American Journal of Public Health*, 109, no.3 (2019): 1-11.

marginalization. Some of these women may actually engage in criminal activities to provide for their children.⁸

The relationships these mothers have with their children vary. Not all of them are primary caregivers or have legal custody of their children. Some of them did not have a close relationship with their children prior to becoming involved with the criminal justice system. When a mother's actions lead to detention, not all mothers seek to maintain contact with their children during and after a custodial sanction.⁹ In some instances, a mother's interaction with the law, including incarceration, may benefit the child. This can be the case when the child is exposed to physical, emotional, or sexual abuse, or is otherwise in need of protection. However, in most cases women want to act responsibly and care for their children but find it difficult to prevent their own problems with the law from affecting the children's wellbeing. Moreover, most of them are keenly aware of the social stigmas attached to their own situation and how this is likely to affect their children.

Parenting Challenges at Each Stage in the Criminal Justice Process

Safeguarding Children of Arrested Parents

The arrest of a parent is usually unexpected, and it can be particularly disruptive and stressful for the child(ren) involved. One study showed that children who had experienced the arrest of a parent were 73% more likely to have elevated post-traumatic stress symptoms compared with their peers who have not witnessed a parental arrest¹⁰. Police are the stakeholders most adequately primed to protect the child and support the mother's ability to explain things and plan for her child during this critical time.

When police are conducting an arrest, they are bound by departmental procedures, the need to maintain the integrity of the arrest, and the safety of all involved – all in situations which may be rapidly evolving, chaotic, and sometimes violent. There are, however, some simple additional safeguards that police can put in place during arrests to reduce the trauma the

⁸ Eljdupovic, Gordana and Rebecca Jarenko Bromwich, "Incarcerated Mothers: Oppression and Resistance". Demeter Press. 2013.

⁹ Some scholars suggest that, due to the mother's pre-existing experiences with trauma, attempting to maintain a relationship with their child during detention feels extremely daunting. These feelings of overwhelm at the thought of rebuilding their relationship with their children cause them to give up, even though they still care for their children deeply. See: Paynter, Heggie, Matheson, Rillie, Beals and Bray, 2022

¹⁰ Roberts, Yvonne Humenay, Frank Snyder, Joy Kaufman, Meghan Finley, Amy Griffin, Janet Anderson, Tim Marshall, Susan Radway, Virginia Stack and Cindy A. Crusto, "Children exposed to the arrest of a family member: Associations with mental health", *Journal of Child and Family Studies*, 23 (2014): 214-224.

witnessing child experiences and to support the mother in fulfilling her parenting obligations.

While there is no doubt that most officers will work to protect the child and engage in a positive and healthy way, formalizing such processes ensures consistency and begins to embed the importance of responding to the unique vulnerabilities of these children into police culture. This amplified focus on children's needs not only benefits the families impacted, but, from a policing perspective, can also contribute to positive police-community relations.

General Principles for Safeguarding Children and Recognizing Parenting Obligations of a Mother During Arrest

Adapted from 2021 COPE Police Toolkit and the International Association of Chiefs of Police 2014 national model of policy and practice for when a parent is arrested.

See also: International Association of Chiefs of Police (2016). *Implementing a Parental Arrest Policy to Safeguard Children: A Guide for Police Executives*. Accessible [here](#).

Prior to the Arrest:

- Wherever and whenever possible, arrests should not take place in front of children. Of course, this is not always realistic, particularly in emergency situations. A solution proposed is for emergency dispatchers to regularly ask if there are children at the scene. This would give the attending officer the awareness that a child is involved.

During the Arrest:

- If the arrest is made in the home, the officer should directly ask the arrested person if they have any children, including children who may not be in the home. As mothers may be unlikely to disclose their parental status, due to fear of MCFD involvement, officers should be aware of any toys, children's clothing, or signs that a child does, in fact, reside in the home. If the arrest is made outside of the home (for example, in the case of a traffic stop), the officer should directly ask if arrangements will need to be made for any children in the care of the arrested parent. These considerations apply equally to anyone under the age of 18.¹¹ If a child is outside of the home, police must consider allowing the arrested parent to call their child and advise them of what is going on. This should never be done if the cellphone will be entered into evidence.

¹¹ Often, there is a false assumption that teenagers are able to “fend for themselves”. This assumption should be challenged, and appropriate care provided for all children under the age of 18. Older children should be able to speak into where and with whom they would like to stay, and this should be given reasonable consideration to determine whether this is a safe and appropriate placement.

- After the immediate police considerations are resolved, if the parent discloses that they do have a child(ren), the officer must support the mother in making suitable arrangements for the child(ren).
 - In an effort to reduce additional separation trauma for the child, and where appropriate, a child impacted by a mother's arrest should not automatically and routinely be placed in the care of MCFD or the relevant Indigenous child protection authority. Efforts to find a suitable caregiver who the child is familiar with, such as the other parent, a relative, or a family friend should be explored.
 - Mother's may be hesitant to involve MCFD or the relevant Indigenous child protection authority due to fear of terminating their parental rights. In these situations, they may attempt to hastily find an informal caregiver, such as a family member. Mothers should be supported and provided adequate time to make caregiving arrangements for their children. Due diligence must still be had to ensure the alternative caregiver is appropriate.
 - While this can often be in the best interest of the child, an informal placement with family members may also increase financial or other social burdens on the caregiver. When a family member informally agrees to take over caregiving responsibility for a child, there may be government-provided financial support that they can apply for. The caregiver should be made aware of these options. The caregiver should also be made aware of the steps within a criminal justice process and the supports available along the way.
 - Specific protocols around appropriate placement should be created. This should be done in consultation with MCFD, the applicable Indigenous child protection authority, mothers with lived experience, and other relevant services.
- If it is appropriate and safe to do so, the mother should be given the opportunity to speak to the child about what is happening and share the caregiving plan with them. This is not always possible. If it is not possible for the mother to share the caregiving plan with them, the attending officer, or an on-scene representative, such as a social worker, caseworker, or victim advocate, should share this message with the child.
 - In situations where translation is required, it is best to have a skilled translator attend the scene. This is not always realistic. In these situations, a child should *never* be asked to translate for a parent, nor vice-versa, as the child may be inaccurately informed of what is actually happening, be asked to hide evidence, or be put in a position where they now have to testify in court.
 - Officers should receive training in how to communicate in an effective and age-appropriate manner with children witnessing an arrest. Officers should also be trained in de-escalation techniques appropriate for a range of ages.

- Once a caregiving arrangement has been made, police should encourage the child to take some of their comfort items, such as favorite toys, clothes, books, art, or photographs with them.
- Where resources permit, it is meaningful to have the arresting officer follow up with the child and the caregiver – even if it is simply a telephone call. This is particularly important when child protection authorities are not involved, and the child has been placed informally. This can give the officer the opportunity to assess the suitability of the caregiving arrangement, offer community-based resources to the caregiver and child, and can increase the child’s feelings of safety and security. This can also work to heal the child’s perceptions of police and ‘authority’ at large, which may have been negatively impacted during the arrest.

Pre-trial Detention

Pre-trial detention is particularly disruptive to the family, largely due to the uncertainty surrounding the length of detention and outcome of the accusation. Children’s normal ways of life (including meals, participation in activities, or attendance at school) may be interrupted. The children, their family, and other caregivers may be confused about what to expect and what arrangements are necessary during the parent’s detention. The parents may have lost their employment or housing, thus reducing their ability to provide an adequate environment for their child upon release.¹² In some instance, individuals awaiting trial in custody may feel it necessary to plead guilty to try to shorten the period they will be away from their children.¹³

It is very difficult for parents to maintain contact with their children while in detention. During the pre-trial period, it is particularly important for children to know that their parent is safe and doing ok.¹⁴ Depending on their age and the nature of their relationship with the parent, children should be offered the truth about what their parent is going through. Sharing the information in a truthful and age-appropriate way can protect the bond between the child and the parent.¹⁵

Child visits during this time are crucial for maintaining the parental bond and alleviating the children’s fears and anxiety. Unfortunately, visits may be difficult to arrange due to prison policies and restrictions, transportation time and costs, an unwillingness or inability

¹² Baughman, SB, “Costs of pretrial detention”, *University Law Review*, 97, no.1. (2017).

¹³ Huebner, BM and NA Frost, “Handbook on the consequences of sentencing and punishment decisions”, Routledge. 2018.

¹⁴ Scharff Smith, Peter, “When the innocent are punished”, Palgrave Macmillan. 2014.

¹⁵ Saunders, Vicky and Morag McArthur, “Children of prisoners: Exploring the needs of children and young people who have a parent incarcerated in the ACT Australia”, *Australian Catholic University*, (2013).

of the caregiver to facilitate the visit, or the fact that the pre-trial detention facility is very far from where the children reside.

Even in situations where the parent is released pending trial, complying with the conditions imposed by the court might affect their ability to care and provide for their children.¹⁶ For example, a mother who has lost her housing may find it challenging to adhere to the curfew imposed upon her as part of a bail supervision order. Similarly, travel restrictions may prevent a parent from making contact with a child who lives outside of the court's jurisdiction.

Recognizing this, it is important to note that many women are in prison for offences that would not normally carry a prison sentence. They find themselves in prison for non-compliance with the conditions attached to a bail supervision order or a community-based sentence. The parent's sudden incarceration following a breach of court ordered conditions necessitates new arrangements for the children and is one more disruption in their life.

For these reasons, it is important to ensure that bail conditions realistically consider the mother's parenting obligations and the practical limitations surrounding her ability to successfully meet these conditions.

Sentencing

Sentencing is a prime stage of the criminal justice process where a mother's parental responsibilities can be considered and supported. Unfortunately, both research and practice tell us that there is much work to do in this area.

A custodial sentence can have many negative outcomes, including the loss of the mother's housing, loss of employment, and increased stigma – all which create barriers for the mother's continued fulfillment of her parenting obligations.

Short sentences, of 6 months or less, are particularly disruptive as the child, parent, and caregivers must all rapidly adapt to emotionally charged changes within a short period of time.¹⁷ During consultations with mothers who had served a short sentence, they unanimously agreed that both themselves and their children had been negatively harmed by the process of being incarcerated, even for a brief period of time¹⁸. Short sentences were also found to cause extreme stress for the mothers, who not only worried about their

¹⁶ Skolnik, T, "Criminal justice reform: A transformative agenda". *Alberta Law Review*, 59, no.3. (2022): 631:667.

¹⁷ Short sentences are the most commonly applied custodial sentences in Canada.

¹⁸ Epstein and Baldwin, 2017.

children, but, due to a range of barriers,¹⁹ struggled to fulfil their parenting obligations from behind bars.

Non-custodial measures are often cited as the best option for allowing more of a natural parenting relationship to continue. Without adequate attention paid by practitioners to the unique situations of these mothers, however, even non-custodial measures can prove problematic. Most of the challenges occur in situations where unrealistic conditions are attached to their sentence.

Research and international legal obligations recommend that all options for non-custodial measures should be explored first²⁰, however, if a custodial sentence is required for a mother:

- Prior to sentencing, mothers should be supported in making their child aware of the potential of a custodial sentence and should be supported in making caregiving arrangements.
- If a mother is taken by surprise with a custodial sentence, she should be supported to make caregiving arrangements for her child immediately after sentencing.
- Where appropriate, and with the necessary supports, the child should be made immediately aware of the sentence and have the opportunity to ask any questions that they may be curious about. The ideal situation would be to have the mother share this information with her child.

Despite the negative impacts on the family, and, despite Canada's international legal obligations to consider the best interest of the child in sentencing their parent, there are no federal sentencing guidelines to support judges in inquiring about a defendant's parenting obligations. Furthermore, there are no guidelines on how these obligations should be considered in sentencing. There is currently variance as to when, and how, Canadian judges consider the best interest of the child in sentencing.²¹ Despite this variance, in consultations for this project, BC judges were eager to fall in line with international legal recommendations and consider the best interests of the child when making sentencing decisions. In these situations, the limitation lies in the judge's access to this type of information. One judge described how he was more likely to hear about defendant's pets needing care, rather than hear about a defendant's parenting obligations.

¹⁹ Some of the barriers faced by consulted mothers in fulfilling their parenting obligations while incarcerated included challenges with visits (including logistical issues such as transportation and cost), stigma and stress on the child(ren).

²⁰ Dandurand and Millar, 2018.

²¹ See: Jessica Jahn, *Bringing Information to Prosecutors and Courts on the Impact of Sentencing Decisions on the Offenders' Family and Children*, 2023.

Mothers consulted for this project spoke about the tremendous dilemma that they found themselves in when determining when, how, and if, they should present information to the court about their children. While they were generally aware that awareness of familial responsibilities could serve to mitigate the sentence and encourage the judge to consider the best interests of the child, they were also acutely aware of biases they felt would be applied to themselves and their children. Consistent with other research²², consulted mothers discussed the normative gendered caregiving expectations that others placed on them and how they felt they had been labeled as “bad mothers” because of their criminal activity. This label had significant impacts on the ways that they parented their children, with many mothers reporting they began parenting from “a place of guilt” in an attempt to disprove the “bad mother” label.

Women in these situations seldomly ask for help for their children, nor even disclose that they have a child(ren) due to fear of consequences and feelings that disclosure always backfires on them. Fear of child protection authorities can also lead mothers to “hide” their children, or not disclose their parenting obligations, during a criminal justice process. The mothers we consulted expressed an immense amount of distrust towards child protection authorities. Many of them, prior to coming into conflict with the law, had already had negative interactions with the child protection system. This distrust often led them to hide their family situation and parental responsibilities. Moreover, they often hesitated to reach out for any type of support at all, for themselves or their children.

To support judges’ access to knowledge about a defendant’s caregiving responsibilities, a range of stakeholders need to empower mothers in bringing information about their family responsibilities to the attention of the court and other decision makers²³.

Probation and Other Forms of Community-based Sanctions

Currently, probation is the most common sentence imposed in adult criminal court cases, either on its own or in combination with another sentence. A sentence of probation allows a mother to continue to physically care for her child and, where appropriate, access community-based supports which may be more accessible or effective than supportive programs inside prisons. Despite these positives, the conditions attached to a probation sentence can become problematic for mothers trying to fulfil their parenting obligations.

²² Breuer, E., Remond, M., Lighton, S. *et al.* 2017.

²³ See: Jessica Jahn, Bringing Information to Prosecutors and Courts on the Impact of Sentencing Decisions on the Offenders’ Family and Children, 2023

Mothers consulted for this paper spoke at length about how their unique relationship with staff intended to support them, including probation officers, played a large role in their ability to complete the conditions assigned to them. Some mothers had positive experiences, while the majority felt their probation officers did not understand the barriers that they faced.

Mothers spoke of the many logistical barriers they encounter when trying to access the support they need to meet the conditions attached to the court order. This included finding appropriate housing and accessing services, such as counselling (due to issues with transportation, accessibility/cost of childcare, or the hours the service was available). They also spoke of the meaningfulness, or lack of meaningfulness, with the conditions assigned, in comparison with their own personal goals for wellbeing.

Although there are barriers for mothers attempting to meet the required conditions, failure to comply with, or complete, conditions can lead to negative impacts on the family. A mother who is unable to successfully complete their community-based sentence may be convicted for an additional charge of “administration of justice” offences. This can lead to a period of incarceration, which in turn has severe negative impacts on her ability to fulfill her parenting responsibilities.

Probation officers are uniquely primed to support the mother in meeting her parenting obligations and reducing barriers to the fulfillment of these obligations. Although not common practice, or perhaps even awareness, probation officers have the option of including information about the defendant’s parenting obligations in bail reports and pre-sentence reports, with the ultimate intention of supporting the court with sentencing decisions. To maximize the potential of these relationships, further training is needed. Currently, probation officers in Canada are not universally trained in understanding the impacts of criminal justice processes on an offender’s children. This would be a key area for future investment.

The following measures should be considered to ensure mothers can successfully complete a community-based sentence:

- Holistic, trauma-informed training, grounded in the rights of the child (as operationalized by the Convention on the Rights of the Child) should be developed for the range of stakeholders, including probation officers, that support mothers throughout the various stages of a criminal justice process. This training should focus on the implications of the respective stages of the criminal justice process on children and provide practical guidance on how to support mothers in meeting their parental obligations through these phases.

- Probation officers should be trained in the tools, including bail reports and pre-sentence reports, available to them as they work to support mothers going through a criminal justice process.
- Judges who administer probation, or community-based sentences, should consider not only the impact of the sentence, but also the feasibility of the assigned conditions on mothers who have parenting obligations.
- Community-based services which support mothers in meeting the conditions of their probation, or community-based sentence, should regularly consult with impacted women to assess the accessibility of their services and any barriers these women are facing with participation. Services should then be adapted to increase accessibility.

Incarceration

It is practically challenging for parents to maintain contact with their children during a period of incarceration.²⁴ These reasons include, among many, significant emotional distress for both the mother and visiting child, financial barriers, the high cost of telephone calls, challenges with technology for video calls, a lack of child-friendly visiting spaces, and visit procedures that are often very intimidating for the child.

In Canada, during 2019-2020, only 25% of female offenders were sentenced to imprisonment. The other 75% were sentenced to probation or received a conditional or community-based sentence.²⁵ The vast majority of them were sentenced to a very short sentence (usually less than 6 months).²⁶ On average, they serve less than 40 days.

Short-term imprisonment disrupts the offenders' life and destabilizes their social relationships, as well as their living, employment, and family arrangements. It typically offers nothing that might genuinely help their successful social reintegration after release. These short terms of imprisonment also have an impact on the offender's family, especially the children. Having a parent in prison, for any length of time, especially when it is the child's primary caregiver, can be detrimental to a child's development and wellbeing. The experience can be traumatic, putting the child at risk for both increased negative behaviours and victimization.⁵ Due to these increased vulnerabilities for the child, the impact of a prison sentence on offenders with parental responsibility should be considered at the time of sentencing.⁶ In situations where incarceration is necessary due to public

²⁴ Paynter et. al (2022)

²⁵ Statistics Canada. [Table 35-10-0031-01 Adult criminal courts, guilty cases by most serious sentence.](#)

²⁶ Department of Justice. 2017. Accessible at: <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2017/jan01.html>.

safety concerns, or consideration for the victim, the following steps can be taken to mitigate the negative impacts on the offender’s child.

Mitigating the Impact of Parental Imprisonment on the Children²⁷
<ul style="list-style-type: none"> • On admission and during or after a transfer, prison staff should support the mother in connecting with her child and/or the caregiver to explain her whereabouts. • Caregivers may be hesitant to bring a child to a detention center to visit their parent. Caregivers should be provided with information on the benefits of having the child visit the incarcerated parent and the importance of maintaining the mother-child bond. • Transportation to visits should be offered either through the institution or through non-profit services. In these cases, attention should be paid to ensuring there is adequate funding to maintain sustainability. • Technology, in the form of video calling, should be utilized, where appropriate. This could reduce some of the logistical barriers, such as transportation and time, for caregivers. Prison staff should be trained not only in the logistics of technology, but also in the importance of maintaining the mother-child connection through virtual visitation. • Correctional staff should also be provided training on the experiences of children during visits and the importance of the mother-child relationship. • Child-friendly visiting processes and spaces should be developed. This can include creating a more natural environment for the mother and child to visit (aside from behind glass), developing more child-friendly security checks, and allowing access to food or washrooms.²⁸ • When a mother is sentenced to a federal institution, child-specific programs, such as the Mother-Child Program should be available to maintain the bond.²⁹ As most women are sentenced for very short provincial sentences, similar programs should be developed at the provincial levels. Barriers to accessing these programs at both the provincial and federal levels should be closely monitored. • Prison-based parenting skills programs offered to women should be regularly evaluated to ensure they are having the intended impact.

²⁷ See: Enhancing the Protective Environment for Children of Parents in Conflict with the Law or Incarcerated: A Framework for Action. <https://efry.com/wp-content/uploads/2018/12/framework-for-action-protective-environment-for-children-dec-2018.pdf>.

²⁸ McCormick, Amanda, Hayli Millar and Glen Paddock, “In the best interests of the child: strategies for recognizing and supporting Canada’s at-risk population of children with incarcerated parents.” Abbotsford: Centre for Safe Schools and Communities. 2014.

²⁹ In British Columbia, there is only one provincial institution that offers such a program – Alouette Correctional Center. The program appears to be quite ill utilized, due to restrictive criteria, which make it difficult to access. See: Knudsen, Else Marie, “The curious invisibility of Canadian children of prisoners”, *Criminologie*, 52, no.1 (2019); 177-202

- As visits can be traumatizing for a child, counselling services should be available to the child(ren) to debrief after visits. The visits can also be traumatizing for mothers and many of them may benefit from participating in support groups inside the institution.

Reintegration

Reintegration is another very challenging time for the family. Children may be ambivalent about their parent's return after a period of incarceration, as they have adjusted to their "new" life.³⁰ It appears that the younger a child is when the mother is released from prison, the more challenging it is to regain the parental connection.³¹

Canadian research shows us that while mothers in conflict with the law continued to have dreams of what they could provide for their children, the reality remains that, upon release, they generally return to the same oppressive and challenging social situations that may have led to their criminal behaviour³². It is important for practitioners to be mindful of the situations that women are being returned to when considering how best to support them. If the environments were already ripe for criminal behaviour and child protection concerns, one cannot logically assume that returning the mother and the child(ren) to these conditions, without adequate support, can lead to positive outcomes.

Regaining Custody of the Child

After a term of imprisonment, regaining custody of the child(ren) can be extremely challenging for mothers. This is true whether the child was in state care or with a family member or familiar caregiver (such as a grandparent). Both mothers and practitioners consulted for this project identified that it can be a real uphill battle.

Families, especially those who have taken over the caregiving responsibilities while the mother was in conflict with the law, play a complex role in reintegration. One researcher describes how "the 'family' can be viewed as *both* a positive, or 'protective' aspect, and a 'risk' factor for those in contact with the criminal justice system"³³. In some situations, families may provide necessary financial or social support, or motivation for the mother to adopt a healthier lifestyle, but this is not always the case.

³⁰ McCormick, Millar and Paddock, 2014.

³¹ Scobie, Olivia and Amber Gazso. 2013. "It was easier to say I didn't have kids': Mothering, Incarceration, and Relationships with Social and Criminal Justice Policies." In *Incarcerated Mothers: Oppression and Resistance*. Toronto: Demeter Press.

³² Eljdupovic and Jaremko Bromwich, 2013.

³³ Clarke, Kinsella and Fletcher in the Palgrave Handbook of Prison and the Family pg. 412. 2019.

In some familial situations, patterns of violence, drug use, stigma, and poor relationships can negatively impact mothers attempting to reintegrate and regain parental responsibility for their children. The resulting expectations from family can also put additional pressure on the mother or contribute to increased surveillance³⁴. Among practitioners consulted for this project, children being placed with family was seen as both positive and negative.

Housing

Accessing housing, in particular, has been identified as a barrier that mothers experience when attempting to reintegrate after incarceration. Canadian research has shown the ability to access and maintain appropriate and safe housing can decrease an individual's likelihood of reoffending³⁵. Appropriate, safe, and accessible housing provides mothers with the necessary stability to seek employment, access healthcare, access social benefits, and, where appropriate, regain custody of their children. Although housing is important for both desistance from crime, and to allow mothers to fulfill their parenting obligations, the high rental and low vacancy rates in BC makes it very challenging to access. More attention should be paid to the unique housing needs of these families.

Moving through a criminal justice process impacts families differently during each stage. Maintaining a protective environment around children whose parents face criminal sanctions requires a concerted and collaborative effort. Ideally, supportive programs and services should activate immediately upon the arrest and/or remand of a parent to custody and should continue through the duration of the remanded or sentenced incarceration and into post-release. Where support programs and services *are* available to mothers and their children, care must be given to ensure they do not further stigmatize either of them.

The Impact of Stigma

Children who know their parents are in prison are often ashamed of this fact. Some families find this situation so shameful that they do not tell children where their parents are, nor explain the situation to them. This can lead to feelings of fear, confusion, abandonment, and low self-worth.

Assumptions are unfortunately made about the child, based on the actions of the parent. This attitude is sometimes displayed by teachers, social workers, community members, and social service or criminal justice practitioners³⁶. This can include comments such as

³⁴ Clarke et al, 2019.

³⁵ Elwood Martin, Ruth, Debra Hanson, Christine Hemingway, Vivian Ramsden, Jane Buxton, Alison Granger-Brown, Lara-Lisa Condello, Ann Macaulay, Patti Janssen, T Gregory Hislop, "Homelessness as viewed by incarcerated women: participatory research", *International Journal for Prison Health*, 8, no.3-4 (2012): 108-116.

³⁶ McCormick, Millar and Paddock, 2014.

“the apple doesn’t fall far from the tree”, or suggestions that the child will be a negative influence on their peer group³⁷. This stigma can affect children in different ways dependent on their age. For example, primary school children may feel more pressure to “fit in” at this age and hide their emotions and experiences to avoid being stigmatized by peers and teachers.³⁸ Hiding these emotions due to stigma can lead to behavioural issues, sleeping problems, or challenges with school.³⁹ Adolescents, already craving independence, may be more likely to react with anger and a desire to cut off all contact with the parent⁴⁰. With peer groups being so important to this age group, they may also hide the truth about their parent’s involvement with the law, which can prevent them from accessing support.

Mothers in conflict with the law also face tremendous social stigma. They are typically labelled as “bad mothers” and feel shamed, and blamed, as mothers due to their criminal conviction. People around them often adopt a punitive attitude, as if they should be further punished for what is happening to their children as a result of their actions.

According to the mothers consulted for this project, negative reactions of others are disempowering and makes it harder to parent their children. The fact that these mothers faced criminal sanctions was often used by other people as a reason to take away the mothers’ power to make decisions about their own children.

Spaces should be created, both in research and practice, to capture the lived experience voices of mothers who have gone through a criminal justice process. Hearing directly from them about the barriers and challenges they faced should be integrated into future reform efforts.

Conclusion

This paper discussed the parenting challenges that mothers experience while going through each stage of a criminal justice process. By combining research with the lived experience voices of women who mothered while in conflict with the law, it brought to light the various barriers that these mother’s face in fulfilling their parenting responsibilities. It highlighted how these barriers, particularly when coupled with the strong impacts of stigma, can prevent them from seeking supports, bringing forward information to the courts about their children, and from successfully completing community-based sentences.

³⁷ Elizabeth Fry Society of Greater Vancouver, “Supporting children with incarcerated parents: A community guide”, 2019.

³⁸ Cunningham, Alison and Linda Baker, “Waiting for Mommy: Giving voice to the hidden victims of imprisonment”, 2003.

³⁹ Cunningham and Baker, 2003.

⁴⁰ McCormick, Millar and Paddock, 2014.

The paper also shared promising practices and offered practical guidance for various criminal justice stakeholders on how to support these mothers and their children at each stage of the justice process. The information shared here can be used as a starting point for re-evaluating policy and practice among practitioners at each stage of the criminal justice process.

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