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# PRINCIPLES OF ACTION FOR CHILDREN WITH A PARENT IN PRISON: EXPLANATORY DOCUMENT

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## Rationale

Children with a parent in prison have a distinct set of needs. These children are likely to experience trauma, feelings of loss, anxiety and uncertainty as a result of the absence of, and separation from, a parent. They are likely to experience disruption to their care arrangements and face stigma from their peers, schools, communities and wider society. Imprisonment also has an impact on family dynamics and may result in family breakdown or prove an additional burden to the family. This can be the result of the loss of income or additional costs such as those associated with travelling to prison.

International research shows that children with a parent in prison are twice as likely to experience mental health issues compared with their peers.<sup>1</sup> Therefore, there is a need to identify and support the specific needs and rights of children with a parent in prison in their own right.

## General Principles - Definition of Child

Reference to children in this document primarily relates to all children and young people under the age of 18 years. This is in line with the requirements set out under Article 1 of the United Nations Convention on the Rights of the Child 1989.

However, it is worth noting that young people aged under 24 years currently fall within the remit of the Department of Children and Youth Affairs and, as a result,

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<sup>1</sup> Glover, J. (2009) Every night you cry: the realities of having a parent in prison. Essex: Barnados. p 2

where these young people have experience of having a parent in prison, they should also be understood to be part of this cohort with specific needs.

While primarily focused on children with a parent in prison, these principles of action, and the commitments contained therein, may be adapted to include other categories of children and young people whose parents are subject to arrest, criminal justice proceedings and detention.

## Recognising Diversity

It is important to recognise that children with a parent in prison are not a homogenous group and a one-size fits all response is not appropriate. A child sensitive approach which develops targeted responses that meet the specific needs and circumstances of each child is essential. In addition, specific groups within the wider cohort should also be recognised as requiring tailored responses, including traveller children and children with disabilities who have a parent in prison.

## Promoting Positive Action

These proposed principles of action are designed to seek positive outcomes for this cohort of children. By recognising these children as being part of a specific vulnerable group with a distinct set of needs, all parties need to ensure that it does not result in further stigmatisation. It is therefore essential to ensure that no unintended negative consequences arise from any actions taken in response. This is particularly important in the context of public awareness raising actions as well as interactions with this group of children directly or indirectly.

The aim of these proposed principles is to stimulate discussion and highlight the factors that should underpin any national policy or actions to promote and protect the rights and needs of children with a parent in prison.

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## Build a Solid Knowledge Base

- 1. Gather data on the current situation of children with a parent in prison in Ireland** – anonymised data should be gathered to inform policy and service provision. This should include the number of children affected, as well as general demographics and geographical information.

Currently, no reliable data is systematically collected pertaining to this group of children. Without anonymised data concerning who these children are, where they are, and what needs they have, developing an effective support system is challenging. The Irish Penal Reform Trust (IPRT) has estimated that, at any given time, upwards of 6,000 children in Ireland have a parent who is incarcerated. Yet little is known beyond this estimate. Thus, no accurate data currently exists which reflects the real number of children and young people with a parent in prison in Ireland. In order to meet the needs and respect the rights of this group of children, it is vital that a concrete and systematic knowledge base is developed. This will allow for the development of effective and appropriately targeted services that will respond effectively to their particular needs and rights.

Key data on numbers, location, and service access should be gathered from key sectors which can, and do, interact with this group of children. These include: the Irish Prison Service (prison visits), Tusla (child protection, child care arrangements), Education (school supports), Health (Community Mental Health Teams, child therapy and psychology services), Early Childhood Services, Youth Services and relevant non-Governmental and Voluntary Sector groups working in this area.

The Department of Children and Youth Affairs would appear to be the most appropriate body to coordinate the mapping of information. The information should be widely circulated, thus providing an evidential base for essential policy and service development. The data must be collected and disseminated in an anonymised manner for the sole purpose of informing and supporting policy and service provision.

**2. Map services in Ireland available for children with a parent in prison – a national map should be developed of the current services available, where they are and what gaps exist in service provision for this group of children.**

While a variety of services currently exist in Ireland to provide more general services and supports for children with a parent in prison, including child mental health, child protection services and youth services, there are only a few dedicated services for this group of children, whether inside prison or in the wider community.<sup>2</sup> What is not known however, is if these children access any of these services, and if so, how many. Moreover, also unclear, is the extent to which such services provide dedicated information and supports that respond in a sensitive manner to the particular needs of this group. Nor is there any information provided on inter-agency working practice (if any) whether at a local or a national level.

In order to understand the level of support currently provided, it is essential that clear and reliable data is collated on current service provision, inter-agency cooperation, the geographical spread/access to services and the extent of knowledge within such services of the particular needs of this group of children. Developing a knowledge base of what services this group already access will allow for effective multi-agency partnership and ensure that duplication of service provision is avoided.

The Department of Children and Youth Affairs would appear to be the most appropriate body to coordinate the mapping of information. The information

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<sup>2</sup> The main services are currently provided by Bedford Row Family Project (Limerick); St Nicholas Trust (Cork); Childhood Development Initiative (Dublin). In addition, there are some prison supports generated through the work of the Irish Prison Service.

should be widely disseminated and provide an evidential base for essential policy and service development.

- 3. Increase the current knowledge base on the issues of children with a parent in prison in Ireland** – opportunities should be identified to establish or promote research in all disciplines on children with a parent in prison.

Research relating to children with a parent in prison has been increasing internationally, but little has yet been carried out in the Irish context (see Appendix 4 for a list of research in Ireland). The availability of reliable and up-to-date high quality research on this issue to support knowledge and understanding is essential in building effective responses at policy and service level. A longitudinal research study on the outcomes for children with a parent in prison in Ireland would be invaluable in tracking and informing existing knowledge in this area. Such research needs support, however, both in terms of facilitating access to key bodies as well as financially.<sup>3</sup> All sectors, including funding bodies, third level institutions, NGOs, State and Agency should recognise the need to promote research across the disciplines.

## Hear the voices of children with a parent in prison

- 4. Develop and effectively employ mechanisms to ensure that children with a parent in prison have their voices heard** - these mechanisms should ensure that children are heard in policy, service provision and individual treatment. This should operate in relation to situations concerning a parent in prison, but also expanded to include situations where children have a parent within the criminal justice system. This includes arrest, the court process and care arrangements.

Article 12 of the UN Convention on the Rights of the Child 1989, to which Ireland is a party since 1992, requires that the voices of children be heard in all matters concerning them. Ireland has committed to developing and implementing laws, policies and practical approaches that support the implementation of this

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<sup>3</sup> This work and related research/event was funded by the Irish Research Council.

provision at domestic level. In particular, the Department of Children and Youth Affairs has adopted a National Strategy on Children and Young People's Participation in Decision-making (2015-2020)<sup>4</sup> as well as a practical guide for hearing seldom heard children.<sup>5</sup> It is vital to ensure that strategies such as these, as well as the structures which emerge as a result, are made accessible to this group of 'seldom heard' children. Moreover, there should be a clear commitment to consultation in relation to policy and service development and delivery. While it can prove challenging to access this group of children, it is not impossible to do so when appropriate steps are taken to recognise their individual circumstances.

## Recognise the holistic needs of children with a parent in prison in National Policy

### **5. A clear statement outlining a commitment to State action supporting this group of children should be adopted.**

A key Governmental statement of intent to support this group of children will have a powerful effect across all Government Departments, agencies and NGOs. In addition to national policy commitments, the development of systems to facilitate this shift can be developed.

For example, in Italy, a *Memorandum of Understanding (MOU)* has been adopted between The Ministry of Justice, The National Ombudsman for Childhood and Adolescence and Bambinisenzasbarre, an NGO working with children with a parent in prison. The agreement commits to the achievement and protection of the rights of children of imprisoned parents. The focus of the Italian model is primarily on prison practice, but also includes decisions of judicial authorities who are encouraged to take into account the rights and needs of children of an arrested or detained person who has parental

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<sup>4</sup>[www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf](http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf)

<sup>5</sup>[www.dcy.gov.ie/documents/publications/20150903PracticalGuieSeldomHeardChildren.pdf](http://www.dcy.gov.ie/documents/publications/20150903PracticalGuieSeldomHeardChildren.pdf)

responsibility; as well as to give priority to alternatives to pre-trial detention. The full text of the MOU is provided in Appendix 1 to this document.

- 6. Adopt a holistic approach to policy and service provision in order to address the needs and rights of children with a parent in prison.** Current commitments at policy and service levels in areas of Education, Health, Child Protection and Social Welfare should be examined to ensure the needs and particular circumstances of these children are recognised and included.

In order to develop an effective national response to children with a parent in prison, it is vital that a holistic approach to policy and services is adopted. This requires that this group is identified in policy documents in all areas including Health, Education, Child Services, Social Welfare and Criminal Justice.

At the present time, the only reference to children with a parent in prison in National Policy documents is in the *Better Outcomes, Brighter Futures: The National Policy Framework for Children & Young People 2014-2020*. This requires that the Department of Justice “[e]nsure adequate access by children to an imprisoned parent, in a child-friendly setting” (para 3.22). While inclusion of this group of children in the national framework document is welcome, this commitment is extremely narrow, focusing on only one aspect of parental imprisonment and children. It is therefore essential that policy commitments in this area are expanded across all key areas.

Inclusion of a holistic approach in national policy documents will be an essential step in ensuring that this group of children become visible in policy and service planning and implementation. We would therefore encourage that the mid-term review of *Better Outcomes, Brighter Futures* directly engage with the overall needs of this group.

- 7. Establish an inter-departmental working group led by the Department of Children and Youth Affairs to develop an inter-agency strategy to ensure better collaboration on the issue.**

Given the need to adopt a holistic approach, it is vital that an inter-disciplinary working group be identified to lead policy and service development in this area. This group would be well placed to examine current policy and practice as well as identify key future actions. It would operate from a position of authority within government and should be able to access information regarding practice across all sectors. The mapping exercises set out in points 1 and 2 would further support this work. The existing Children and Young People Services Committees may be well placed to undertake this role.

## Establish Multi-Agency Partnerships at local level and national levels

### **8. Promote the establishment of multi-agency partnerships at both local and national level which can coordinate service level approaches.**

Agencies such as Tusla, the Irish Prison Service, the Irish Probation Service and Children and Young People Services Committees have already developed multi-agency partnerships in a variety of areas. It is vital that this approach be adopted in responding to the needs and rights of children with a parent in prison. The vast majority of these children will already have interactions with such agencies, for example with the Irish Prison Service in relation to parental visits. However, in order to develop an effective response to their needs, it is essential that these agencies commit to joint planning and co-ordination of services for and with children and young people with a parent in prison both generally and in relation to specific cases.

## Develop Monitoring Frameworks

### **9. The state should formally recognise children with a parent in prison as a priority for monitoring these children's needs and outcomes in accordance with basic children's rights protections in Ireland.**

In order to ensure appropriate implementation of policy commitments and effective service development, it is vital that monitoring frameworks are

developed. These can take a variety of forms. For example, the Italian MOU (discussed in point 5 above) includes monitoring as a core component. In Ireland, the Ombudsman for Children's Office has developed a strong reputation for defending the rights of children, particularly those in marginalised areas. It would therefore be appropriate to consult with the Office in order to examine how its work might support this group of children through its monitoring and/or coordinating role. Examples of Children's Ombudsman offices adopting this type of role can be found in a number of European jurisdictions including Italy<sup>6</sup> and Croatia.<sup>7</sup>

In addition, NGOs committed to supporting this group of children could play a role in participating in a partnership arrangement with the Department of Children and Youth Affairs (DCYA) and key agencies to support the oversight and coordination of this work. The DCYA is currently engaged in data collection in relation to children 'Growing Up in Ireland' with outcomes concerning all children including children with a parent in prison being recorded.

## Raise awareness of the issue

### **10. Provide children with a parent in prison with clear information regarding their rights and the services and supports available to them.**

The establishment and promotion of a Charter of Rights adapted to meet the specific needs and rights of children with a parent in prison will provide a focus for guaranteeing that the rights of these children are respected. In addition, it will facilitate a rights framework by which policy and service provision can be assessed. It will provide children with a clear framework whereby they can assess the treatment they receive. Finally, it will support them in speaking out in relation to their own rights.

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<sup>6</sup> <http://childrenofprisoners.eu/about-us/memorandum-of-understanding/>

<sup>7</sup> <http://www.dijete.hr/en.html>

A well-established and best known example of such a Charter of Rights is the *San Francisco Children of Imprisoned Parents Partnership Bill of Rights* which is included in Appendix 2. Key rights are:

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

These rights go beyond the issue of imprisonment of parents only and link into a number of fundamental concerns that children who have experienced having a parent in the criminal justice system have. These include concerns around arrest and treatment by An Garda Síochána, child care arrangements, and participation in all decisions made about themselves and their parents.

- 11. Develop and disseminate information and educational resources to challenge the stigma commonly associated with having a parent in prison** – this information should enhance understanding in sectors.

Awareness and understanding of the unique situation of children with a parent in prison is limited within Irish society. Awareness-raising that is sensitive and truthful regarding the experiences of children with a parent in prison can go a long way towards reducing stigmatisation of this group. This should take place particularly with professionals working with children who have a parent in prison. This would include teachers, Gardaí, the Judiciary, counsellors and mental health professionals, community workers and social workers.

In addition, sectors not normally considered in relation to this group need to be exposed to awareness-raising. Critical here is the media, who should be encouraged to be more aware of the impact of reporting on children whose parents are in conflict with the law. It is essential that the stigmatising impact of media coverage is understood and that the media commit to treating this group of children in the same way they treat victims of crime, young people in conflict with the law and child and family law cases. The media should avoid disclosing identifying information about children of suspects and offenders, including the number of children an offender has and their ages. In addition, the media should be sensitive to their behaviour around trials and release from prison ensuring that they do not physically intrude on children and families or their right to privacy through their reporting.

# Appendix 1: Memorandum of Understanding - Italy

## Memorandum of Understanding

between

The Ministry of Justice

The National Ombudsman for Childhood and Adolescence

and

Bambinisenzasbarre ONLUS

**THE MINISTRY OF JUSTICE**

**THE NATIONAL OMBUDSMAN FOR CHILDHOOD AND ADOLESCENCE**

**BAMBINISENZASBARRE ONLUS**

- **Having regard to** articles 2-3 of the Italian Constitution, which guarantee respect for human dignity;
- **Having regard to** article 27 of the Italian Constitution, which promotes the principle of reeducation and resocialization as a goal of the custodial sentence;
- **Having regard to** Constitutional Law 18 October 2001, n° 3;
- **Having regard to** the UNO Convention on the Rights of the Child of 20 November 1989, ratified and brought into effect by Italy through Law 27-05-1991, n° 176 in particular articles 1-2-3-9-12-30;
- **Having regard to** “Standard Minimum Rules for the Administration of Juvenile Justice”, UNO, New York, 29 November 1985;
- **Having regard to** the European Convention on Human Rights, in particular art.8, which stresses the right to respect for private and family life;
- **Having regard to** the European Resolution 2007/2116 (INI), adopted in Strasburg on 13 March 2008, art.24, which reaffirms the importance of respecting the rights of the child irrespective of the parent’s legal status;
- **Having regard to** Resolution n°1663/2009 of the Parliamentary Assembly of the Council of Europe;
- **Having regard to** the European Prison Rules in the updated version of Recommendation R (2006) 2 of 11 January 2006, in particular as regards paragraph 36 concerning policies supporting parenting and paragraph 24(4), which prescribes visiting rules that must allow prisoners to preserve and develop as regular as possible family relationships
- **Having regard to** the goals of the Council of Europe Strategy for the Rights of the Child (2016-2021)
- **Having regard to** Law 26 July 1975 , n°354 in the section which regulates a prisoner’s relationships with the external world and with his/her family, especially with regard to preserving parental relationships;

- **Having regard to** DPR (Presidential Decree) 30 June 2000 n°230, “Regulations containing provisions on the Penitentiary Act and on the measures entailing restrictions on, and deprivation of personal liberty”;
- **Having regard to** Law 8 March 2001, n°40 “Measures alternative to detention protecting the relationship between female prisoners and minors”, art.5;
- **Having regard to** Law 21 April 2011, n°62, and in particular the agreement according to article 4 par. 1, as well as Decree 8 March 2013 “Requirements for Protected Foster Homes”;
- **Having regard to** Circular 10 December 2009 of the Ministry of Justice, Prison Administration Department, Directorate-General for Prisoners and Treatment, called “Prison treatment and parenting - facilitated path and prison stay for the child meeting his/her detained parent”;
- **Having regard to** Law 12 June 2011, n°112, establishing the Ombudsman Authority for Childhood and Adolescence;
- **Having regard to** the Ministry of Justice’s Decree 5 December 2012, called "Approval of the Charter of Prisoners’ and Internees’ Rights and Duties”;
- **Having regard to** Recommendation CM/Rec (2012) 12 of the Committee of Ministers of the Council of Europe to Member States on foreign prisoners and in particular the chapter “Women”;
- **Having regard to** the Memorandum of Understanding signed on 28 January 2014, in the presence of the Minister of the Interior, between the Chief of Police – General Director of Public Security – and the Ombudsman Authority for Childhood and Adolescence;
- **Having regard to** Law 23 December 2013, n° 146, modified by the Law 21 February 2014, n°10, establishing the Ombudsman Authority for the Rights of People Detained or Deprived of Personal Freedom.

#### **Considering that**

The Parties agree on the importance and necessity of renewing the Memorandum of Understanding, undersigned on the 21st March 2014, with the aim to reinforce and to expand the outcomes achieved so far and pinpoint new tools of action.

It is reaffirmed the will to continue with the intent of:

- Favoring the maintenance of contacts between imprisoned parents and their children, always safeguarding the minor’s superior interest;
- highlighting the peculiarity of imprisoned parents’ children, so that regulatory interventions and measures are promoted, which allow for this social group’s need for parental and emotional relationships without, however, producing further stigma and discrimination against them;
- protecting children’s right to an emotional and continuing bond with their imprisoned parent, who has a duty and a right to play his/her parental role;
- supporting family and parental relationship during and beyond detention, assisting the family and, in particular, supporting the minors who are emotionally, socially and economically damaged, with frequent negative repercussions on their health and effects also on their dropping out of school;

- overcoming barriers connected to prejudice and discrimination with a view to a process of social integration and deep cultural change, which is necessary for the project of a supportive and inclusive society.
- Considering the articles, undersigned in this Memorandum of Understanding, as reference in making decisions and in establishing the modus operandi as to what concerns all parents, even minor ones, who are subject to measures entailing restrictions of liberty;
- Ensuring that is offered to mothers and fathers in prison the support along assisted paths to parenthood.

## **THE PARTIES AGREE:**

### **Article 1**

(Decisions concerning judicial orders, judgments and sentences)

Judicial authorities will be sensitized and invited, in particular:

1. to take into account the rights and requirements of the underage children of the arrested or detained person who still has parental responsibility, when a possible precautionary measure is being decided, giving priority to measures alternative to pre-trial detention in prison;
2. to enforce the restrictions imposed to contacts between pre-trial detainees and the external world so as not to violate minors' right to remain in contact with the distanced parent, as provided for in the UNO Convention on the Rights of the Child;
3. to select, in the case of parents of underage children, measures for the implementation of the penalty which would also take into consideration the minors' superior interest;
4. to consider as significant the needs of underage children – such as birthday, first day of school, hospitalization - in granting temporary permissions of leaves of absence (bonus or necessity) to imprisoned parents.

### **Article 2**

(Minors' visits to prisons)

The Ministry of Justice, with the collaboration of the Guarantor Authority for Childhood and Adolescence and the Association Bambinisenzasbarre ONLUS, commits to implementing all necessary actions so that:

1. the choice of the detention place for a parent with minor children takes into account the need to guarantee the possibility of direct contact between child and parent during his/her stay in prison;
2. a minor can visit the imprisoned parent within a week from the arrest and, on a regular basis, from then on;
3. in all waiting rooms a children's space is equipped, where minors can feel welcome and recognized. In these spaces, operators will welcome and supply family members with what is needed for a decent wait (like a bottle warmer or a changing table) and young children with resources such as toys or drawing tables, in order to prepare them to the meeting with their imprisoned parent;

4. every visiting room, even small ones, provides a “children’s space” that is reserved to playing. Where the building allows it, to equip a separate space intended as a playroom. This plan will be gradually implemented, becoming fully at least in Institutions for the execution of prison sentences (establishments where longer sentences are served);
5. buildings are accessible to disabled minors or to those with special access needs;
6. visits are organized over six days a week, allowing at least for two afternoons so as not to prevent minors from attending school. Visits are to be scheduled also on Sundays and public holidays;
7. minors are given information appropriate for their age about visiting procedures and rules, as well as information on what can be taken to visits and on how security checking procedures are handled on their arrival in the prison. This information must be provided in various languages and various formats (for example through large size posters, video and audio versions that are easily understood even by smaller children);
8. security checks are adequate and in proportion to minors’ rights and conditions, considering, in particular, their right to privacy, to physical and psychological integrity, to safety;
9. children are offered the possibility to visit their parents also with special attention to privacy, when it is necessary and in particular circumstances;
10. minors are allowed to acquire knowledge of their parents’ life under detention and, where the facilities allow it and if it is seen as appropriate in the minors’ superior interest, to visit some of the spaces which their imprisoned parents frequent (for example, the canteen or recreation rooms or workshops or places of worship);
11. alternative accompaniment for minors from 0 to 12 years of age is provided, in case the other parent or a reference adult is not available. This aim can be achieved with the help of qualified social workers, or permission can also be given to members of non-governmental organizations (NGO) or associations that are active in this field;
12. in detention centers, wherever possible, “groups of experts in support of minors” are organized, with special attention to younger children, in order to assess regularly how they experience prison visits, in order to favor contact with parents also through different means and in order to provide advice about possible improvements to facilities and procedures.

### **Article 3**

(More types of relationships with the imprisoned parent)

The Parties also undertake:

1. not to consider additional contacts with minor children as “rewards” granted on the basis of the prisoner’s behavior;
2. to develop specific guidelines concerning support and maintenance of contacts between imprisoned parents and minor children who cannot easily meet. Under these circumstances specific regulations need to be provided which can more systematically allow the use of mobile telephone systems and the Internet, including webcam and chat communications.

### **Article 4**

(Training of the staff)

1. Penitentiary Administration staff, as well as Juvenile Justice and Rehabilitation Youth Centers operators, working in institutes must be specifically formed about the impact produced on minors by a parent's detention and by the prison environment.
2. In particular penitentiary Police staff must be specifically formed about security checking procedures appropriate for children and adolescents, so that in every prison and juvenile penal institute specialized police officers can be found, adequately formed for the assistance to minors and families during visits.

#### **Article 5**

(information, assistance and instruction)

Each of the Parties undersigning this Memorandum, within its scope and through its own procedures, will strive in order to:

1. give prisoners, their relatives and their children, including minors, appropriate, updated and relevant information in every phase of the process, from arrest to release, both about procedures and possibilities for their contacts and about the assistance specifically offered them before, during and after the relative's detention period. Minors must be given information – clear and adequate to their age - about possible supporting services that may be available to them independently of their parents, if possible, also through the help of NGO's or qualified associations;
2. offer support and assistance to imprisoned parents, who may be worried about the impact prison visits may have on their children and/or themselves, so as to promote the maintenance of contacts with their children using the various means of communication that are allowed, especially during the time preceding the first possible visit;
3. propose in detention institutes assisted parenthood programs, encouraging the development and the strengthening of a constructive parent-child relationship;
4. encourage detained parents to practice, during detention, their parental responsibility towards minor children, and, in particular, envisaging that the possibility of having leave permits –to visit their family at home- may be an integral part of preparation to release;
5. support, in detention centers and in juvenile penal institutes, information and counselling activities for imprisoned parents of minor children about the social and educational services provided for by Local Authorities to families and about the necessary updating procedures of documents pertaining their family and social situations;
6. avail themselves of NGO's and of associations and cooperate with them, so that in every facility a positive parental relationship is maintained and their activity is adequately favored according to the different needs in the various institutes.

#### **Article 6**

(Data collection)

1. The Department of penitentiary administration and the Department for Juvenile Justice and Rehabilitation Youth Centers will systematically collect every useful information about the number and the age of minor children of indicted, convicted

or detained parents in prison or mental health facilities, and more possible information on the number of family visits effectively used on a yearly base.

2. Statistics, grouped according to age, on the number of minors who have one or both parents in prison, will be made available to the public.

### **Article 7**

(Transitional provisions)

In the await for the achievement of the objective to avoid the stay of children inside prison, the Parties would imperatively and scrupulously verify that:

1. all children living in prison can freely access open air areas;
2. procedures and agreements with ONG's and Associations are carried out so that children can freely access the external world (if necessary, under the supervision of qualified staff, wearing civilian clothes);
3. children attend nursery schools and schools outside the prison, ensuring that they are always accompanied;
4. staff working in detention centers hosting children is made up also by qualified people, trained on what concerns the psychological and physical development and education of individuals in their developmental age;
5. educational and supporting facilities are offered, preferably outside the institutes hosting children and imprisoned parents;
6. imprisoned parents living with their children in prison are supported in the development of their parental abilities, have the opportunity to adequately look after their children, having for example the possibility to cook their meals for them, to get them ready for nursery school and school, to spend time playing with them and undertaking other activities both inside the center and in the open air areas;
7. measures for psychological and social accompaniment are provided so as to support the imprisoned parent and his/her child in their separation and to reduce its negative effect.

### **Article 8**

(Establishing of a permanent working Table)

A permanent working Table is established, constituted by representatives of the Ministry of Justice, the Ombudsman Authority for Childhood and Adolescence, the Ombudsman Authority for the Rights of People Detained or Deprived of Personal Freedom and the Association Bambinisenzasbarre ONLUS, which is summoned every 3 months by the Ombudsman Authority for Childhood and Adolescence, and which:

1. will periodically monitor the implementing of this Memorandum;
2. will promote the cooperation of the institutional and non-institutional agencies, involved in various ways, with special attention to the phase of the arrest, as well as to the information and sensitization of school operators working in contact with minors with imprisoned parents;
3. will encourage the exchange of good practices, of analyses and of suggestions on the national and European level.

## **Article 9**

(Validity)

This Memorandum of Understanding has a validity of two years from the date of signing and can be modified and integrated at any time if the parties agree and it can be renewed upon expiration.

Rome, 6 September 2016

THE MINISTER OF JUSTICE

(Andrea Orlando)

THE PRESIDENT OF THE ASSOCIATION BAMBINISENZASBARRE ONLUS

(Lia Rosa Sacerdote)

THE NATIONAL OMBUDSMAN AUTHORITY FOR CHILDHOOD AND ADOLESCENCE

(Filomena Albano)

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The Memorandum of Understanding can be accessed online at <http://www.bambinisenzasbarre.org/text-rights-charter-of-children-of-prisoners/>

## Appendix 2: San Francisco Children of Imprisoned Parents Partnership Bill of Rights

1. I have the right to be kept safe and informed at the time of my parent's arrest.
2. I have the right to be heard when decisions are made about me.
3. I have the right to be considered when decisions are made about my parent.
4. I have the right to be well cared for in my parent's absence.
5. I have the right to speak with, see and touch my parent.
6. I have the right to support as I struggle with my parent's incarceration.
7. I have the right not to be judged, blamed or labeled because of my parent's incarceration.
8. I have the right to a lifelong relationship with my parent.

In 2005, the San Francisco Children of Imprisoned Parents Partnership launched the Rights to Realities Initiative, with the long-term goal of ensuring that every child in San Francisco whose parent is arrested and/or incarcerated is guaranteed the rights that follow. This included the following agenda for action to make the rights a reality.

### **AN AGENDA FOR ACTION**

1. I have the right to be kept safe and informed at the time of my parent's arrest.
  - Develop arrest protocols that support and protect children.
  - Offer children and/or their caregivers basic information about the post-arrest process.
2. I have the right to be heard when decisions are made about me.
  - Train staff at institutions whose constituency includes children of incarcerated parents to recognize and address these children's needs and concerns. Tell the truth.
  - Listen.
3. I have the right to be considered when decisions are made about my parent.
  - Review current sentencing law in terms of its impact on children and families.
  - Turn arrest into an opportunity for family preservation
  - Include a family impact statement in pre-sentence investigation reports
4. I have the right to be well cared for in my parent's absence.
  - Support children by supporting their caretakers.
  - Offer subsidized guardianship.
5. I have the right to speak with, see and touch my parent.

- Provide access to visiting rooms that are child-centered, non-intimidating and conducive to bonding.
  - Consider proximity to family when siting prisons and assigning prisoners.
  - Encourage child welfare departments to facilitate contact.
6. I have the right to support as I face my parent's incarceration.
- Train adults who work with young people to recognize the needs and concerns of children whose parents are incarcerated.
  - Provide access to specially trained therapists, counselors, and/or mentors.
  - Save five percent for families.
7. I have the right not to be judged, blamed or labeled because my parent is incarcerated.
- Create opportunities for children of incarcerated parents to communicate with and support each other.
  - Create a truth fit to tell.
  - Consider differential response when a parent is arrested.
8. I have the right to a lifelong relationship with my parent.
- Re-examine the Adoption and Safe Families Act.
  - Designate a family services coordinator at prisons and jails.
  - Support incarcerated parents upon reentry.
  - Focus on rehabilitation and alternatives to incarceration.

For more information see <http://www.sfcipp.org/>

## Appendix 3 – Resources on Children with a parent in prison

Action for Families (UK)	<a href="http://www.prisonersfamilies.org.uk/">http://www.prisonersfamilies.org.uk/</a>
Bambinisenzasbarre (Italy)	<a href="http://www.bambinisenzasbarre.org/">http://www.bambinisenzasbarre.org/</a>
Bedford Row Family Project	<a href="http://www.bedfordrow.ie/">http://www.bedfordrow.ie/</a>
Care After Prison (Dublin)	<a href="http://careafterprison.ie/">http://careafterprison.ie/</a>
Childhood Development Initiative	<a href="http://www.twcdi.ie/">http://www.twcdi.ie/</a>
Children of Prisoners Europe (COPE) (European Network)	<a href="http://childrenofprisoners.eu/">http://childrenofprisoners.eu/</a>
Families Outside (Scotland)	<a href="https://www.familiesoutside.org.uk/">https://www.familiesoutside.org.uk/</a>
i-hop (Barnardo's UK)	<a href="https://www.i-hop.org.uk/">https://www.i-hop.org.uk/</a>
International Coalition for with Incarcerated Parents (INCCIP) (International)	<a href="http://inccip.org/">http://inccip.org/</a>
Messages Project (USA)	<a href="https://themessagesproject.org/">https://themessagesproject.org/</a>
Niacro (NI)	<a href="http://www.niacro.co.uk/">http://www.niacro.co.uk/</a>
Pillars (NZ)	<a href="http://www.pillars.org.nz/">http://www.pillars.org.nz/</a>
Prison Advice and Care Trust (PACT) (UK)	<a href="http://www.prisonersfamilies.org.uk/">http://www.prisonersfamilies.org.uk/</a>
St Nicholas Trust (Cork)	<a href="http://www.stnicholastrust.ie/">http://www.stnicholastrust.ie/</a>
San Francisco Children of Incarcerated Parents Partnership (USA)	<a href="http://www.sfcipp.org/">http://www.sfcipp.org/</a>

## Appendix 4: Irish research on children affected by parental imprisonment

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- Ryan-Mangan, A., (2014) An Accident of Birth. 3(1) *Irish Community Development Law Journal* 7

# **A joint UCC Law School, Children’s Rights Alliance and Irish Penal Reform Trust Project**



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