

**PIECING IT TOGETHER:**  
SUPPORTING CHILDREN AND FAMILIES WITH  
A FAMILY MEMBER IN PRISON IN IRELAND



*“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 kind of 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 ....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.”*

**(Jo, Mother)**

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

Artwork by children affected by imprisonment and people with experience of imprisonment, courtesy of Bedford Row Family Project.

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## Foreword

In November 2012, the Irish Penal Reform Trust (IPRT) was the first to cast a spotlight on children and families of prisoners in Ireland with our ground-breaking report, *“Picking up the Pieces”: The Rights and Needs of Children and Families Affected by Imprisonment*.<sup>1</sup> Since then, IPRT has worked with researchers in University College Cork (UCC) and the Children’s Rights Alliance to develop the *Principles of Action for Children with a Parent in Prison*<sup>2</sup> and more recently, in May 2020, IPRT received funding for a three-year project that aims to reduce harm for children and families with a family member in prison.<sup>3</sup> As part of this project, IPRT has collaborated with the Centre for Criminal Justice and Human Rights in UCC to establish a network that focuses on bringing about positive sustained change for children and families with a family member in prison. The *Action for Children and Families of Prisoners Network* is comprised of people with experience of imprisonment, community-based organisations, researchers and academics, and advocacy groups.<sup>4</sup> The network has held several meetings and the experiences and knowledge of network members has directly fed into this report.

This report provides an update to the 2012 *Picking up the Pieces* publication. Children and families who have a family member in prison are often described as the ‘hidden’ victims of the penal system because they must endure their own punishment, despite not having perpetrated any crime.<sup>5</sup> In this report, IPRT re-examines key issues for children and families impacted by imprisonment, set against the current policy and legislative landscape in Ireland, as well as international developments and emerging best practice.<sup>6</sup>

A final note: this report was written against the backdrop of the Covid-19 pandemic. While it is clear that the pandemic has had a particularly negative impact on people who have a family member in prison,<sup>7</sup> and these impacts will be discussed as relevant throughout the report, this is not a report about Covid-19. Many of the challenges of imprisonment for children and families existed before the pandemic and will continue after it ends. The focus of this report therefore remains on achieving and sustaining long-term systemic policy change for children and families.

The report further assesses the progress made to support the rights of children and families since the original paper was published in 2012. While there have been some positive developments in the years since publication, many of the original policy recommendations remain outstanding.

**As we approach the tenth year since the 2012 report, IPRT calls for the implementation of these outstanding recommendations, as well as the new recommendations made in this report, by the relevant assigned stakeholders. Children and families affected by imprisonment have been waiting too long and the time for action is now.**

- 1 Irish Penal Reform Trust. (2012). *“Picking up the Pieces”: The Rights and Needs of Children and Families Affected by Imprisonment* [online]. Available from: [https://www.iprt.ie/site/assets/files/6320/iprt\\_children\\_of\\_imprisoned\\_parents2.pdf](https://www.iprt.ie/site/assets/files/6320/iprt_children_of_imprisoned_parents2.pdf) [accessed 14 April 2021].
- 2 IPRT, UCC and the Children’s Rights Alliance. (2017). *Principles of Action for Children with a Parent in Prison* [online]. Available from: [https://www.iprt.ie/site/assets/files/6422/action\\_plan\\_for\\_children\\_with\\_a\\_parent\\_in\\_prison.pdf](https://www.iprt.ie/site/assets/files/6422/action_plan_for_children_with_a_parent_in_prison.pdf) [accessed 14 April 2021].
- 3 IPRT. (2020). New project: IPRT Children and Families Initiative [online]. Available from: <https://www.iprt.ie/latest-news/new-project-iprt-children-and-families-initiative/> [accessed 14 April 2021].
- 4 Action for Children and Families of Prisoners (2021). *Homepage* [online]. Available from: <https://www.actionforfamilies.ie/> [accessed 19 May 2021].
- 5 Child Rights Connect. (2021). *Children of Incarcerated Parents* [online]. Available from: [https://www.childrightsconnect.org/working\\_groups/children-of-incarcerated-parents/](https://www.childrightsconnect.org/working_groups/children-of-incarcerated-parents/) [accessed 19 May 2021]; and Martin, E. (2017). Hidden Consequences: The Impact of Incarceration on Dependent Children. *National Institute of Justice Journal* [online], 273, pp.10-16. Available from: <https://www.ojp.gov/pdffiles1/nij/250342.pdf> [accessed 19 May 2021].
- 6 IPRT’s definition of the ‘family’ is broad and encapsulates persons with significant close relationships to the person in prison.
- 7 Irish Penal Reform Trust. (2020). *“I am worried about the lasting impact this will have”: The experiences of people with a family member in prison during COVID-19* [online]. Available from: <https://www.iprt.ie/covid-19-in-prisons/i-am-worried-about-the-lasting-impact-this-will-have-the-experiences-of-people-with-a-family-member-in-prison-during-covid-19/> [accessed 10 March 2021].



## Acknowledgments

The 2012 *Picking up the Pieces* report involved direct and extensive consultation with children, families, support services and relevant agencies. While, due to Covid-19, it was not possible to conduct such consultations for this updated report, the experiences documented in the original 2012 report remain relevant in illustrating the lived experiences of children and families impacted by imprisonment and are referenced throughout. IPRT would like to reiterate our sincere gratitude to the children and family members who shared their experiences with the researcher in 2012. We also would like to thank the support agencies that helped facilitate the 2012 research and the practitioners who gave their insights on the effects of imprisonment for children and families. Further detail on the approach taken to the 2012 research is set out at Appendix 1 of this report.

Thanks to members of the *Action for Children and Families of Prisoners Network* for informing this updated paper.<sup>8</sup> In particular, we would like to thank Dr Fiona Donson, Director of the Centre for Criminal Justice and Human Rights, UCC.

Sincere thanks to Michelle Martyn, IPRT's Policy & Research Manager until April 2021, for her work on the early drafting of this report and for engaging with Network members on their recommendations for change. Any errors and/or omissions in the final report lie with IPRT.

A very special thank you to the funders of this project, the Katharine Howard Foundation and St. Stephen's Green Trust, without whose support this updated publication would not be possible.

This report is dedicated to the children and families that have been and continue to be affected by these issues, and who so often feel stigmatised and silenced.



This report is endorsed by the *Action for Children and Families of Prisoners* network, whose membership includes Bedford Row Family Project, Care After Prison, Childhood Development Initiative, Children's Rights Alliance, Dillon's Cross Project, EPIC, Fusion CPL, New Directions, Saol Project, SWRap, St Vincent de Paul, Travellers in Prison Initiative, Barnardos, Dr Daragh Bradshaw, Dr Fiona Donson, Dr Ian Marder, Dr Aisling Parkes, families, researchers, activists and others.

On publication of this report, IPRT will ask the *Action for Children and Families of Prisoners* network to further develop the recommendations in key areas, bringing their vision, expertise, and important on-the-ground and lived experience.

<sup>8</sup> IPRT and UCC School of Law set up the *Action for Children and Families of Prisoners Network* in July 2020. The objectives of the Network are to (i) Provide a unified voice advocating for policy change for children and families affected by imprisonment (ii) Map and share current knowledge and disseminate best practices (iii) Support academic research development to inform policymaking (iv) Identify gaps and support key actions for change for children and families.

## Recommendations for Change

### RECOMMENDATION 1: Increase National Recognition of the Rights of Children with a Family Member in Prison

- 1.1. A charter of rights for children with a family member in prison should be drawn up in consultation with children who have experienced parental imprisonment. This could be led by the Department of Children, Equality, Disability, Integration and Youth, or a statutory body such as the Ombudsman for Children's Office.
- 1.2. The Government must fully incorporate the UN Convention on the Rights of the Child into Irish law, to ensure that public bodies comply with the Convention in carrying out their functions and to allow citizens rely directly upon the provisions of the Convention before Irish courts.
- 1.3. The Government, and all relevant agencies, should commit to promoting and acting in line with the Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents*.

### RECOMMENDATION 2: Establish a national support service for children and families with a family member in prison

- 2.1. The Department of Children, Equality, Disability, Integration and Youth should:
  - a. establish an inter-departmental working group to pro-actively review existing policies, and develop new policies, which will reduce harm to, and provide support for, children and families with a family member in prison; and
  - b. conduct a mapping exercise to establish what services currently exist for children and families with a family member in prison and identify where the gaps in service provision arise.
- 2.2. A national support service that can specifically provide information and support to children and families with a family member in prison should be established and funded by the Government.

### RECOMMENDATION 3: Improve Prison Visiting Procedures and Conditions for Children and Families

- 3.1. The Irish Prison Service-led Families and Imprisonment Group should publish its policy on visiting conditions standards without delay.
- 3.2. The Irish Prison Service should establish a child-friendly visiting space in every prison in Ireland, and consult with children and families in the development and implementation of their policies on visiting.
- 3.3. The Irish Prison Service should include, as part of the new internal prison complaints system, a standardised and user-friendly complaints procedure for all prison visitors.
- 3.4. The Department of Justice should provide the Irish Prison Service with funding to deliver an Assisted Prison Visits Scheme, similar to that provided in the UK, and with the aim of assisting low-income families with the costs of prison visits.
- 3.5. The Irish Prison Service should eliminate the blanket practice of screened visits for all prisoners in any prison in Ireland where such a policy / practice exists.
- 3.6. The Irish Prison Service should provide additional training to all prison staff that focuses on the rights of children and family visitors and emphasises the importance of ensuring that all interactions with children, including search procedures, are carried out in a child-friendly manner.
- 3.7. The Irish Prison Service should examine the use of sniffer dogs during security screening of visitors to Irish prisons, including the accuracy of the sniffer dogs in detecting drugs and whether any alternative security measures could be adopted.
- 3.8. The Irish Prison Service should more broadly examine its response to drug-related intimidation in prison, particularly in terms of how it affects families visiting prison, which may include liaising with the National Drug-Related Intimidation Reporting Programme (NDRIRP) run by An Garda Síochána.
- 3.9. The Department of Justice should ensure that any revision to the Prison Rules 2007 includes the minimum standards set out by the revised European Prison Rules 2006, the United Nations *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* ('the Bangkok Rules') and the United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Mandela Rules').
- 3.10. The Office of the Inspector of Prisons and the Ombudsman for Children's Office should consider carrying out a joint review of prison visiting facilities and family contact from a children's rights perspective, to ensure that visits are child-friendly and that children's rights are upheld during the prison visiting process.



**RECOMMENDATION 4:  
Enshrine in Law and Practice the Principle of  
“Prison as a Last Resort” for Primary Caregivers**

- 4.1. The Sentencing Guidelines and Information Committee should include in proposed sentencing guidelines:
  - a. the overarching principle of imprisonment as a last resort;
  - b. a presumption in favour of community sentence where a primary caregiver is being sentenced; and
  - c. a requirement that the ‘best interests’ of the child, and the impact of imprisonment on the child, is considered in circumstances where the primary caregiver may be imprisoned.
- 4.2. The Judicial Studies Committee should provide training to all judges on the impact of imprisonment of a primary caregiver on children.
- 4.3. The Department of Justice should consider implementing a formal process whereby a child’s voice can be heard in all judicial decisions that may affect the child, including where the child’s primary caregiver may be sent to prison.

**RECOMMENDATION 5:  
Improve Data Recording on Children Affected by  
Imprisonment**

- 5.1. The Department of Children, Equality, Disability, Integration and Youth should carry out detailed, longitudinal research on children with a parent in prison.
- 5.2. The Irish Prison Service should:
  - a. develop a centralised database that records the number of prisoners who have children and the number of children each prisoner has; and
  - b. produce aggregated, anonymised data from the information collected, which can be made publicly available.

### RECOMMENDATION 6: Challenge Stigmatisation of Children and Families with a Family Member in Prison

- 6.1. All government departments should recognise children with a family member in prison as a specific cohort in need of support, and at increased risk of negative outcomes, in all relevant policies, reports, briefings and papers.
- 6.2. The Department of Education should:
  - a. incorporate lessons and resources about the potential impact of imprisonment on families and children into the primary and secondary school curriculums;
  - b. develop and deliver training for all teachers on the potential impact of imprisonment on children and how to respond to these children's needs in as sensitive a manner as possible; and
  - c. ensure anti-bullying policies proactively address the bullying of children who have a family member in prison.
- 6.3. An Garda Síochána should provide specific training to existing staff and new recruits on the rights of the family and the rights of children who are related to a suspect or offender.
- 6.4. All members of the media should adhere to the ethical principles developed by the Press Council of Ireland and the Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to member States concerning children with imprisoned parents*.

### RECOMMENDATION 7: Promote and Facilitate Family Involvement during the Period of Imprisonment

- 7.1. The Irish Prison Service should implement a specific family strategy that can be used across the prison estate and which is developed in consultation with families, children and other relevant stakeholders.
- 7.2. As part of this strategy, and in order to promote and facilitate the maximum level of family contact with a relative in prison, the Irish Prison Service should:
  - a. extend in-cell telephone provision across the entire prison estate;
  - b. retain and invest in video phone calls as an additional form of strengthening family contact beyond the Covid-19 pandemic; and
  - c. improve the timeliness of prisoner correspondence by avoiding unnecessary delays in the processing of post.
- 7.3. The Irish Prison Service should roll out the *Family Links* programme across all prisons in Ireland and establish Family Liaison Officers in all prisons with specific responsibility for ensuring families receive information and support as required.
- 7.4. Tusla and the Irish Prison Service should develop a joint protocol that is aimed at supporting parents in prison whose children are in care.
- 7.5. The Department of Justice should expand the availability of 'home leave' and 'early release' programmes for prisoners so that a greater number of people in prison, and their families, can potentially avail of these measures.





# Chapter One:

## Introduction

### 1.1 Context

Currently, there are no publicly available data on the number of children who have a parent in prison. Since June 2018, the Irish Prison Service (IPS) has asked people upon their committal to prison whether they have children. However, there are limitations to the data (namely it relies upon voluntary disclosure).<sup>9</sup> Details about age and general geographic location of the children are not requested which makes it difficult to map service provision.<sup>10</sup> There are accordingly no centralised, comprehensive records of how many children in Ireland are currently affected by parental imprisonment.

The Council of Europe estimates 5,492 children in Ireland have a parent in prison on any given day. Of this number, it is estimated that 5,288 children are separated from an imprisoned father, while 204 children are separated from an imprisoned mother.<sup>11</sup> The high rate of annual prison committals in Ireland means that up to twice this number of children will experience parental imprisonment over the course of a year. The Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents* states:

*“At admission, the prison administration should record the number of children a prisoner has, their ages, and their current primary caregiver, and shall endeavour to keep this information up-to-date.”<sup>12</sup>*

In 2018, 239,769 visitors entered the Irish prison estate, of which 50,592 were identified as children.<sup>13</sup> This indicates that the number of families and children affected by imprisonment annually in Ireland is high and there is a need to ensure policies and practices are compliant with children’s rights.

When a family member enters prison, there are several impacts on children and families including:<sup>14</sup>

- emotional (e.g. feelings of loss, grief, confusion, anxiety, shame, isolation);
- educational (e.g. children taking time off school to visit a parent, loss of concentration in school, behavioural change);
- financial (e.g. loss of income, additional costs of visits to the prison, possible debt); and
- practical (e.g. losing the family home, moving school, the stress of prison visits which can include the length of the journey/ security/ cancelled visits).

There may also be disruption to a child’s care arrangements. For example, statistics from the United Kingdom show that 9 out of 10 children must leave their home because of their mother’s imprisonment.<sup>15</sup>

Children have been described as the “innocent” victims of crime and punishment.<sup>16</sup> This is best encapsulated by the Children of Prisoners Europe (COPE) slogan, “Not my crime, still my sentence”.<sup>17</sup>

The imprisonment of a household member is identified as one of ten Adverse Childhood Experiences (ACEs) which can have a lasting impact on people into adulthood.<sup>18</sup> Evidence suggests

9 On 29 April 2021, there were 3,788 prisoners in custody, of whom 2,068 declared that they had children, and the total number of children declared was 5,150. See: Houses of the Oireachtas. (2021). *Prisoner Data* [online] Available from: <https://www.oireachtas.ie/en/debates/question/2021-05-05/466/> [accessed 24 May 2021].

10 Ibid.

11 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

12 Ibid.

13 Houses of the Oireachtas. (2019). *Prison Visiting Regulations* [online] Available from: <https://www.oireachtas.ie/en/debates/question/2019-05-16/27/> [accessed 19 May 2021].

14 Kincaid, S., Roberts, M. and Kane, E. (2019). *Children of Prisoners: Fixing a Broken System* [online]. UK: Crest Advisory. Available from: <https://www.nicco.org.uk/userfiles/downloads/5c90a6395f6d8-children-of-prisoners-full-report-web-version.pdf> [accessed 14 April 2021].

15 Women in Prison. (2021). *Key facts* [online]. Available from: <https://www.womeninprison.org.uk/campaigns/key-facts> [accessed 19 May 2021].

16 University of Glasgow and the Scottish Centre for Crime and Justice. (2015). *Impact of punishment: families of people in prison* [online]. Available from: <http://www.sccjr.ac.uk/wp-content/uploads/2015/10/SCCJR-Impact-of-crime-prisoners-families.pdf> [accessed 19 May 2021].

17 Children of Prisoners Europe. (2020). *Campaign 2020* [online]. Available from: <https://childrenofprisoners.eu/campaign-2020/> [accessed 18 May 2021].

18 Center for Disease Control and Prevention. (2021). *About the CDC-Kaiser ACE Study* [online]. Available: <https://www.cdc.gov/>

that children who have a parent in prison are five times more likely to be exposed to other ACEs than children without imprisoned parents.<sup>19</sup>

Data collected from *Growing Up in Ireland*,<sup>20</sup> a national longitudinal study of children in Ireland, indicated that children with a parent in prison were more likely to come from socially disadvantaged homes and were more likely to have experienced other potentially stressful life events than children who had not experienced parental imprisonment. Children who had been affected by parental imprisonment reported higher levels of anxiety at the age of nine and lower levels of happiness at the age of 13, with higher levels of emotional difficulties for the children also reported by their primary caregiver.<sup>21</sup> Caregivers also experience more significant social, financial, and psychological stressors, which can potentially undermine a child's caregiving environment.<sup>22</sup>

Data published by Oberstown Children Detention Campus shows that during the period 2017-2019, between 31% and 54% of children on the campus had suffered the loss of a parent either through death, imprisonment, or a lack of long-term contact. In 2017, 12% of children on campus had (previously or currently) a father in prison.<sup>23</sup> This demonstrates the importance of supporting children who have a parent in prison as well as their primary caregiver.

In addition to reducing harm and supporting children and families affected by imprisonment, family work has been described as at the “*heart of prison reform*” and key to prisoner rehabilitation.<sup>24</sup> Research has shown that the re-offending rate for prisoners who received visits from a family member was 39% lower than for those who did not.<sup>25</sup> There is also promising evidence that family visits and home leave for prisoners can contribute to reduced re-offending.<sup>26</sup>

For the many reasons outlined above, it is important that the Department of Children, Equality, Disability, Integration and Youth and the Department of Justice work together to develop and implement policies that reduce harms and support children, families and prisoners.

## 1.2 Aims of the Report

This updated report aims to raise awareness of the experiences of children and families affected by imprisonment in Ireland and to advocate for positive policy change. The core objectives of the report are as follows:

- Identify key issues experienced by children and families affected by imprisonment and provide an update on the State's response.
- Contextualise these issues within current legislative and policy frameworks, international human rights standards, and best practice.
- Make recommendations for change to relevant government departments, agencies and others.

## 1.3 Policy Context

### (i) **Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People, 2014-2020, Department of Children and Youth Affairs**

For the first time, in 2014, the stigma and life disruption experienced by children and young people upon the imprisonment of their parent was identified by the then Department of Children and Youth Affairs in the national policy, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People, 2014-2020*.<sup>27</sup> It contained

[violenceprevention/aces/about.html](https://www.violenceprevention/aces/about.html) [accessed 18 May 2021].

19 Turney, K. (2018). Adverse childhood experiences among children of incarcerated parents. *Children and Youth Services Review*, Vol 89, pp.218-225.

20 Economic Social and Research Institute and Trinity College Dublin. (2021). *Growing Up in Ireland* [online]. Available from: <https://www.growingup.ie/> [accessed 19 May 2021].

21 Bradshaw, D., Hannigan, A., Creaven, A. M., and Muldoon, O.T. (2020). Longitudinal associations between parental incarceration and children's emotional and behavioural development: Results from a population cohort study. *Child: Care Health and Development*, 46(2), pp.195-202. Available from: <https://doi.org/10.1111/cch.12732> [accessed 29 June 2021].

22 Bradshaw, D. and Muldoon, O. (2017). “*Family Links*” Evaluation Report [online]. Dublin: Childhood Development Initiative (CDI). Available from: [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Final-Family-Links-Evaluation-Report-January-2017.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/Final-Family-Links-Evaluation-Report-January-2017.pdf) [accessed 19 May 2021].

23 Oberstown Children Detention Campus. *Key Characteristics of Young People in Detention* [online]. Available from: <https://www.oberstown.com/campus-stats/> [accessed 19 May 2021].

24 Lord Farmer. (2017). *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, at p.16 [online]. UK: HMSO. Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642244/farmer-review-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642244/farmer-review-report.pdf) [accessed 19 May 2021].

25 Ibid.

26 HMPPS. (2019). *Supporting relationships between prisoners and their families* [online]. Available from: <https://www.gov.uk/guidance/supporting-relationships-between-prisoners-and-their-families> [accessed 19 May 2021].

27 Department of Children and Youth Affairs. (2014). *Better Outcomes, Brighter Futures, The national policy framework for children and young people* [online]. Dublin: The Stationery Office. Available from: <https://www.gov.ie/en/publication/775847-better-outcomes->

one specific government commitment for this cohort of children: “Ensure adequate access by children to an imprisoned parent, in a child-friendly setting.”<sup>28</sup>

IPRT welcomed that children who had a parent in prison were recognised for the first time in the Department’s policy framework.

In 2018, the Minister for Justice stated that all prisons across the estate had child-friendly visiting conditions.<sup>29</sup> The Minister also outlined a number of steps that had been taken such as: the establishment of the Families and Imprisonment Group, chaired by a prison governor and including representatives from Tusla (the Child and Family Agency); the operation of prison visitor centres such as the establishment of a new visitor area in Castlereagh Prison; the facilitation of weekend visits; and training in child protection.

The successor to the *National Policy Framework for Children and Young People* should consider further the evidence of these children’s significant life adversities. The Department should also commit to establishing an interdepartmental working group that can examine policies which might support positive outcomes for children affected by imprisonment, with a view to including those policies in the next national framework.

### (ii.) **Strategic Review of Penal Policy, Penal Policy Review Group**

In 2014, the Penal Policy Review Group (PPRG)<sup>30</sup> recommended that:

“...all criminal justice agencies work to promote contact between offenders and their children and other family members, where such contact is

appropriate. In particular, the Irish Prison Service should work to ensure that conditions for visits, as well as decisions regarding the denial of visits, are sensitive to the needs of children.”<sup>31</sup>

While several ‘milestones’ have been met in response to this recommendation (e.g. the removal of nearly all counter-style visits across the prison estate and refurbishment of visiting facilities in Wheatfield, Castlereagh, and the Progression Unit on Mountjoy campus),<sup>32</sup> others remain outstanding. For example, the Families and Imprisonment Group has not yet established a policy on visiting conditions<sup>33</sup> and there has been very little update on the actions the Group has taken to support family contact.<sup>34</sup>

### (iii.) **Reports of the Interagency Group for a Fairer and Safer Ireland**

Following the publication of the *Strategic Review of Penal Policy*, the Interagency Group for a Fairer and Safer Ireland was established in order to implement two of the Penal Policy Review Group’s recommendations (specifically Recommendation 3 and Recommendation 41) that relate to improving interdepartmental and interagency coordination in the integration and rehabilitation of offenders and the prevention of crime. In the Interagency Group’s 2018 report, a key focus was on supporting families.<sup>35</sup> The Chair of the Group recognised the lack of internet access in prisons and noted that digital technology would make family contact much more accessible. The Interagency Group also heard presentations from Pat Dawson (then Governor of Cork Prison), IPRT, and Tusla about the specific issues affecting prisoners and their families. This led the Interagency Group to identify an opportunity

[brighter-futures/](#) [accessed 19 May 2021].

28 Department of Children and Youth Affairs. (2014). *Better Outcomes, Brighter Futures, The national policy framework for children and young people*, at p.82 [online]. Dublin: The Stationery Office. Available from: <https://www.gov.ie/en/publication/775847-better-outcomes-brighter-futures/> [accessed 19 May 2021].

29 Houses of the Oireachtas. (2018). *Prison Facilities* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2018-06-12/518/> [accessed 19 May 2021].

30 The Penal Policy Review Group was a cross-agency working group established by former Minister for Justice Alan Shatter to conduct a review of penal policy. See Department of Justice ‘Penal Policy Review’ [online]: [http://www.justice.ie/en/JELR/Pages/Penal\\_Policy\\_Review](http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review) [accessed 19 May 2021].

31 Department of Justice. (2014). *Strategic Review of Penal Policy: Final Report*, at p.74 [online] [http://www.justice.ie/en/JELR/Pages/Penal\\_Policy\\_Review](http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review) [accessed 19 May 2021].

32 Department of Justice. (2019). *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality* [online]. Available from: [http://www.justice.ie/en/JELR/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf/Files/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf](http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf) [accessed 19 May 2021].

33 Ibid.

34 It is also worth noting that the eighth report of the Implementation Oversight Group has not yet been published (as of May 2021). This is despite a promise from the Minister that it would be published by the end of 2020. See Kildare Street. (2020). *Department of Justice and Equality, Penal Policy Review Group* [online]. Available from: <https://www.kildarestreet.com/wrans/?id=2020-09-23a.437> [accessed 19 May 2021].

35 Department of Justice. (2019). *Annual Report of the Interagency Group for a Fairer and Safer Ireland 2018* [online]. Available from: [http://www.justice.ie/en/JELR/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2018.pdf/Files/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2018.pdf](http://www.justice.ie/en/JELR/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2018.pdf/Files/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2018.pdf) [accessed 29 April 2021].

for interagency co-operation that would support families, especially children. This was expected to be a continued focus of work for 2019, however, the Interagency Group’s 2019 report did not discuss the progress of these measures nor did it address the needs of families and children of people in prison further.<sup>36</sup>

#### (iv.) **Strategic Plans, Irish Prison Service**

In its *Strategic Plan 2012-2015*,<sup>37</sup> the IPS committed to strengthening family supports “to facilitate on-going contact with prisoners while in custody and their reintegration post-release, with appropriate supports and programmes.”<sup>38</sup> This action was linked to the outcome of “improved resettlement and rehabilitation of prisoners.”<sup>39</sup>

There was an increased focus on the important role families play in the IPS *Strategic Plan 2016-2018*, with the IPS committing to “work to assist the families of offenders in maintaining stable relationships by offering prisoners and their partners an opportunity to invest in developing the family unit.”<sup>40</sup> Key actions contained in this strategy included:

- the evaluation of the first Family Links programme and its further rollout;
- a mechanism to seek input and feedback from families of prisoners;
- investing in infrastructural improvements to visitor’s areas;
- amending visiting times to facilitate children going to school; and

- the implementation of a child protection policy.

Outcomes associated with these actions included reduced risk of re-offending, reduced risk of inter-generational offending, improved resettlement and reintegration outcomes, and improved visiting facilities for prisoners’ families.

The Family Links programme was a multi-agency collaboration aimed at developing prison support services for families during the period of imprisonment. It included the establishment of a prison family liaison service based in Limerick Prison.<sup>41</sup> While the Family Links programme was implemented in Limerick Prison between 2014 and 2016, and extended to Wheatfield Prison and Castlereagh Prison, its work has since stopped, ending in early 2018.<sup>42</sup>

The current IPS *Strategic Plan 2019-2022* does not include any actions related to supporting prisoners’ children and families, despite an outcome on “greater recognition of family support” in connection with general prisoner supports.<sup>43</sup> In its submission to the IPS on a draft of this strategic plan, IPRT outlined practical measures to support prisoners and their families that could be achieved within a three-year period. These included: increased access to video-conferencing (a measure introduced rapidly in response to the Covid-19 pandemic);<sup>44</sup> increased access to neutral venue visits; increased availability of phone calls including in-cell phone provision (a measure again introduced in response to Covid-19);<sup>45</sup> financial supports for families travelling long distances for visits; and consideration of evening and weekend visits to facilitate children in school and family members who may find it challenging to visit as a result of working hours.<sup>46</sup>

36 Department of Justice. (2021). *Annual Report of the Interagency Group for a Fairer and Safer Ireland 2019* [online]. Available from: [http://www.inis.gov.ie/en/JELR/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2019.pdf/Files/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2019.pdf](http://www.inis.gov.ie/en/JELR/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2019.pdf/Files/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2019.pdf) [accessed 29 April 2021].

37 Irish Prison Service. (2012). *Three Year Strategic Plan 2012-2015*, at p.32 [online]. Available from: <http://www.irishprisons.ie/images/pdf/strategicplanfinal.pdf> [accessed 29 April 2021].

38 Ibid.

39 Ibid.

40 Irish Prison Service. (2016). *Strategic Plan 2016-2018*, at p.32 [online]. Available from: [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/strategic\\_plan\\_2016.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/strategic_plan_2016.pdf) [accessed 10 June 2021].

41 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

42 Ibid.

43 Irish Prison Service. (2019). *Strategic Plan 2019-2022*, at p.15 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Irish-Prison-Services-Strategy-2019-2022.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Services-Strategy-2019-2022.pdf) [accessed 29 April 2021].

44 Irish Prison Service. (2020). *Important notice regarding the introduction of family video visits in Irish Prisons* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Important-notice-regarding-the-introduction-of-family-video-visits-in-Irish-Prisons.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Important-notice-regarding-the-introduction-of-family-video-visits-in-Irish-Prisons.pdf) [accessed 19 May 2021].

45 McCaffrey C. (2021). *Remarks at the Launch of the IPRT Progress in the Penal System Report 2020* [speech], 26th January 2021, Zoom. Available from: [https://www.iprt.ie/site/assets/files/6836/caron\\_mccaffrey\\_iprt\\_pips\\_2020\\_launch.pdf](https://www.iprt.ie/site/assets/files/6836/caron_mccaffrey_iprt_pips_2020_launch.pdf) [accessed 23 March 2021].

46 Irish Penal Reform Trust. (2019). *IPRT Submission to the Consultation on the Irish Prison Service Draft Strategic Plan 2019-2021* [online]. Available from: <https://www.iprt.ie/iprt-submissions/iprt-submission-to-the-consultation-on-the-irish-prison-service-draft-strategic->



**(v.) A safe, fair, and inclusive Ireland – Statement of Strategy 2021-2023, Department of Justice**

The current Department of Justice *Statement of Strategy 2021-2023* does not contain any reference to specifically supporting families of people in prison.<sup>47</sup> The Minister for Justice, however, acknowledges in the strategy the need to make the criminal justice system more sensitive to families' needs through reformed court procedures. Supporting families affected by imprisonment should be considered as part of this reform.

There are also two relevant commitments in the Strategy within which the role of families should be considered: (1) reducing re-offending rates for those convicted of a crime; and (2) leading the development and implementation of strategies and actions to reduce offending and bring greater coherence and shared purpose to the criminal justice sector.

**(vi.) A Framework for the Inspection of Prisons in Ireland, Office of the Inspector of Prisons**

In *A Framework for the Inspection of Prisons in Ireland*, the Office of the Inspector of Prisons (OIP) has featured families in three of its focus areas, namely 'respect and dignity', 'health and wellbeing' and 'resettlement'.<sup>48</sup> Specifically, the Framework recognises the importance of a prisoner's ability to maintain family contact in order to maintain their health and wellbeing and aid resettlement post-release. IPRT welcomes that family contact is identified and recommends that it be considered as a specific area in need of thematic review. IPRT further recommends that the OIP and the Ombudsman for Children's Office consider a joint inspection of prison visiting facilities from a children's rights perspective, to ensure that they are

child-friendly and that children's rights are upheld during the prison visiting process.

## 1.4 Rights Framework

Families and children have rights which are relevant to their treatment by State bodies in the context of experiencing familial imprisonment. It is important to outline the rights of families and the rights of children under the Constitution of Ireland/Bunreacht na hÉireann, the European Convention on Human Rights (ECHR), and the United Nations Convention on the Rights of the Child (UNCRC). The Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents* is also relevant.<sup>49</sup>

### (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 role and rights of the family.<sup>50</sup>

There are also other legally binding instruments that Ireland has ratified, the most fundamental being the ECHR which protects the right to privacy and family life under Article 8: "Everyone has the right to respect for his private and family life, his home and correspondence."<sup>51</sup>

The European Court of Human Rights has considered numerous cases relating to the right to respect prisoners' family life and particularly prisoners' right to contact with their family (including where prisoners are detained in remote penal facilities).<sup>52</sup>

A variety of other Covenants outline the importance of protecting the family unit, including the International Covenant on Civil and Political Rights (ICCPR)<sup>53</sup> and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).<sup>54</sup>

plan-2019-2021/ [accessed 19 May 2021].

47 Department of Justice (2021). *A safe, fair and inclusive Ireland, Statement of Strategy 2021-2023* [online]. Available from: [http://www.justice.ie/en/JELR/Department\\_of\\_Justice\\_Strategy\\_Statement\\_2021\\_-\\_2023.pdf/Files/Department\\_of\\_Justice\\_Strategy\\_Statement\\_2021\\_-\\_2023.pdf](http://www.justice.ie/en/JELR/Department_of_Justice_Strategy_Statement_2021_-_2023.pdf/Files/Department_of_Justice_Strategy_Statement_2021_-_2023.pdf) [accessed 19 May 2021].

48 Office of the Inspector of Prisons. (2020). *A Framework for the Inspections of Prisons in Ireland* [online]. Available from: <https://www.oip.ie/launch-of-the-framework-for-the-inspection-of-prisons-in-ireland/> [accessed 19 May 2021].

49 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

50 Article 41(1) of the Constitution of Ireland states "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." It is important to note that the family as referenced in Article 41 is predicated on marriage.

51 European Convention on Human Rights, Article 8.

52 European Court of Human Rights. (2020). *Factsheet - Right to respect for family life of prisoners in remote penal facilities* [online]. Available from: [https://www.echr.coe.int/Documents/FS\\_Remote\\_penal\\_facilities\\_ENG.pdf](https://www.echr.coe.int/Documents/FS_Remote_penal_facilities_ENG.pdf); and European Court of Human Rights. (2021). *Guide on the case-law of the European Court of Human Rights: Prisoners' Rights*, at paras.73-89 [online]. Available from: [https://www.echr.coe.int/Documents/Guide\\_Prisoners\\_rights\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Prisoners_rights_ENG.pdf) [both accessed 20 May 2021].

53 International Covenant on Civil and Political Rights, Article 23.

54 International Covenant on Social, Economic and Cultural Rights, Article 10.

## (ii.) Children’s Rights

Children were recognised as rights holders independently of the family unit in the Constitution of Ireland following a referendum in November 2012. The amended Article 42A now states:

*“The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights.”<sup>55</sup>*

Ireland ratified the UNCRC in 1992. While all the rights contained in the UNCRC apply equally to children with a family member in prison, there are some fundamental principles particularly relevant to these children:

### • Non-discrimination principle (Article 2)

Under the non-discrimination principle, States must ensure that the child is protected against “discrimination or punishment” based on their “status” and the “activities” of the child’s parents, legal guardians, or family members.<sup>56</sup>

Supporting this UNCRC principle, one of the underlying values in the Council of Europe Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents states, “awareness-raising, cultural change, and social integration are necessary to overcome prejudices and discrimination arising from the imprisonment of a parent.”<sup>57</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>58</sup> There is little information available to assess to what extent the ‘best interests’ of the child is considered by the Irish judiciary when imposing a sentence on a primary caregiver. Local media reports indicates that on at least two occasions a woman has avoided prison because of her caring responsibilities and/or because her children would be left “without a mother”<sup>59</sup>, but there is no comprehensive data available on how dependent children are factored into sentencing decisions. Judgments considering the best interests of children in sentencing are welcome, but a consistent approach is needed by the courts.

### • Right to regular contact (Article 9)

Under the UNCRC, a child separated from a parent(s) has the right to regular contact with them: he/she shall “maintain personal relations and direct contact with parents on a regular basis.”<sup>60</sup> This is particularly important to consider given that a child’s access to regular contact with their parent in prison is dependent on their caregivers and the supports provided by authorities.

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

The child has the right to express his or her views in matters that concern them “in accordance with age and maturity.”<sup>61</sup> The UNCRC also states that 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>62</sup> At no point in the Irish

55 Constitution of Ireland, Article 42A.

56 UN Convention on the Rights of the Child, Article 2 states “State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment based on the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.”

57 CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

58 UN Convention on the Rights of the Child, Article 3(1) states “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.”

59 Waterford News & Star. (2020). ‘Complete nuisance’ avoids prison. *Waterford News & Star* [online], 17 December 2020. Available from: <https://waterford-news.ie/2020/12/17/complete-nuisance-avoids-prison/> [accessed 17 December 2020]. Irish Times. (2021). Woman told by judge to focus on caring for her teenage son. *The Irish Times* [online], 17 May 2021. Available from: <https://www.irishtimes.com/news/politics/woman-told-by-judge-to-focus-on-caring-for-her-teenage-son-1.4567356> [accessed 10 June 2021].

60 UN Convention on the Rights of the Child, Article 9 states “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.”

61 UN Convention on the Rights of the Child, Article 12 (1).

62 Ibid.

criminal justice system do children of persons on trial have a mechanism or an advocate to have their views heard in matters directly affecting them.

In 2012, it was recommended that a Charter of Rights for Children with a Parent(s) in Prison would allow for greater awareness of the rights of children of imprisoned parents in Ireland.<sup>63</sup> For example, the right to be heard is a fundamental right, and at each stage of the criminal justice system, the child should have a forum to express their views on their parent's imprisonment. Children should be a primary consideration when decisions are made, and therefore, all criminal justice authorities should receive training on children's rights. To date, this recommendation has not been acted upon.

### Best Practice Examples

#### UN Convention on the Rights of the Child, Scotland

In 2021, the Scottish parliament passed the UN Convention on the Rights of the Child Bill.<sup>64</sup> It requires Ministers to produce a Children's Rights Scheme<sup>65</sup> that sets out how they comply with children's rights and that reports annually.<sup>66</sup> It also gives the courts power to decide if legislation is compatible with UNCRC requirements and provides powers to the Children's Commissioner (equivalent to the Ombudsman for Children's Office in Ireland) to take legal action concerning children's rights. Public authorities must not act in a way that is incompatible with UNCRC requirements and must report every three years on what they have done to meet the UNCRC requirements. While the UK Government has referred the Bill to the Supreme Court, this has been done on the basis that some aspects of the Bill may go beyond the powers of the Scottish parliament: the challenge does not relate to the policy intention behind the Bill.

#### Children's Rights Scheme, Scotland

The Scottish Alliance for Children's Rights, 'Together', has over 450 members. It welcomed an amendment (amendment 39) to the Children's Rights Scheme, which recognises the particular rights issues facing children and young people from specific populations, including children affected by parental imprisonment.<sup>67</sup> The Together alliance explained the importance of the Children's Rights Scheme reflecting these specific children's experiences, given the barriers they face in accessing their rights. Amendment 39 commits the Minister to identify the issues for these children and outline how they will be addressed. Together welcomed that the Scottish Prison Service falls within the scope of the annual reporting duty under the Children's Rights Scheme. The alliance further advocated for the Children's Rights Scheme to be monitored and assessed against child rights-based indicators in order to be effective.

63 Donson, F. and Parkes, A. (2012). Changing mindsets, changing lives: increasing the visibility of children's rights in cases involving parental incarceration. *International Family Law*, 4, pp.408-413.

64 The Scottish Parliament. (2021). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill* [online]. Available from: <https://beta.parliament.scot/bills-and-laws/bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill> [accessed 19 May 2021].

65 The Children's Rights Scheme is how the Scottish Government considers the UN Convention on the Rights of the Child.

66 Scottish Government. (2021). *Landmark for children's rights* [online]. Available from: <https://www.gov.scot/news/landmark-for-childrens-rights/> [accessed 19 May 2021].

67 Together. (2021). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*, Joint briefing on the Stage 3 debate [online]. Available from: [https://www.togetherscotland.org.uk/media/1911/stage3briefing\\_v2-final.pdf](https://www.togetherscotland.org.uk/media/1911/stage3briefing_v2-final.pdf) [accessed 18 May 2019].

(iii.) **Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents, Council of Europe**

*Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents* (“the Council of Europe 2018 Recommendation”) reaffirms that children with imprisoned parents are entitled to the same rights as all children.<sup>68</sup> It is important to note the wording of the Recommendation, which refers to ‘parents’ rather than ‘mothers’ and includes reference to ‘caregivers’ throughout.<sup>69</sup>

The Recommendation targets 56 actions at a wide range of stakeholders including the police, the judiciary, prison authorities and the media. Specific recommendations will be discussed in the relevant sections of this report, but it is useful to set out here the seven basic principles set out in Part II of the Recommendation:

1. Children with imprisoned parents shall be treated with respect for their human rights and with due regard for their particular situation and needs. These children shall be provided with the opportunity for their views to be heard, directly or indirectly, in relation to decisions which may affect them. Measures that ensure child protection, including respect for the child’s best interests, family life and privacy shall be integral to this, as shall be the measures which support the role of the imprisoned parent from the start of detention and after release.
2. Where a custodial sentence is being contemplated, the rights and best interests of any affected children should be taken into consideration and alternatives to detention be used as far as possible and appropriate, especially in the case of a parent who is a primary caregiver.
3. Whenever a parent is detained, particular consideration shall be given to allocating them to a facility close to their children.
4. When deciding to transfer sentenced persons to or from a State in which their children reside due regard shall be given to the best interests of the child when considering the rehabilitation purpose of the transfer.
5. The prison administration shall endeavour to collect and collate relevant information at entry regarding the children of those detained.

6. National authorities shall endeavour to provide sufficient resources to State agencies and civil society organisations to support children with imprisoned parents and their families to enable them to deal effectively with their particular situation and specific needs, including offering logistical and financial support, where necessary, in order to maintain contact.
7. Appropriate training on child-related policies, practices and procedures, shall be provided for all staff in contact with children and their imprisoned parents.

These seven principles should underpin and guide all actions taken by the government and relevant agencies in respect of children with a family member in prison.

68 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

69 Halton, L. and Townhead, L. (2020). *Children of Incarcerated Parents: International Standards and Guidelines* [online]. Geneva: Quaker United Nations Office. Available from: [https://quano.org/sites/default/files/resources/QUNO%20-%20Children%20of%20Incarcerated%20Parents%20-%20Intl%20Standards%20and%20Guidelines\\_02032020.pdf](https://quano.org/sites/default/files/resources/QUNO%20-%20Children%20of%20Incarcerated%20Parents%20-%20Intl%20Standards%20and%20Guidelines_02032020.pdf) [accessed 19 May 2021].



## Chapter Two: Children on the Outside

This chapter recaptures the issues raised by family members in the original 2012 report, which illustrate the impact of imprisonment on children (with a particular emphasis on the effects of parental imprisonment). These summaries are followed by an update on the current policy situation and recommendations for the actions that should now be taken to improve the situation for children affected by imprisonment.

### 2.1 Disclosure to the child

#### The 2012 Research

The disclosure to a child of their parent's imprisonment is a very sensitive issue. Children are often not told the truth about their parent's whereabouts; for example, during IPRT's original 2012 research, most children were initially told that their parent was "in the army", a "sailor," "in hospital", or "at work." However, there was a consensus among participants that the child usually knew, or eventually found out about, their parent's imprisonment:

*"I used to say, 'Oh he's in work' ...One day he [the son] was watching the news, and he said to me sister '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."*

(Angela, 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 6, 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."*

(Nicola, Mother)

Some parents decided to tell their child for fear that the child might otherwise find out through other means, including through media. In some cases, children did find out about their parent's imprisonment through their peers at school or via the internet.

#### 2021 Policy Update

Members of the Action for Children and Families of Prisoners Network in 2021 reported similar stories to the accounts provided in 2012 e.g. one service provider described a situation where a child knew their Dad was in prison and was trying to hide it from their primary caregiver.<sup>70</sup>

A large-scale EU study on the mental health of children of prisoners found that disclosing the truth to a child in an age-appropriate way can help children adjust to the situation and reduce feelings of anxiety and guilt.<sup>71</sup>

Disclosing imprisonment of a family member, particularly a parent, to children is a difficult decision to make for caregivers. It is therefore important that information and support services exist at a national level to help parents/caregivers make an informed choice.

The Council of Europe 2018 Recommendation states:

*"National authorities shall endeavour to provide sufficient resources to State agencies and civil society organisations to support children with imprisoned parents and their families to enable them to deal effectively with their particular situation and specific needs, including offering logistic and financial support, where necessary, to maintain contact."<sup>72</sup>*

It is clear that international standards require the Irish state to take responsibility for ensuring there are sufficient supports in place for children and families affected by imprisonment.

70 Action for Children and Families of Prisoners Network Meeting, 23 March 2021.

71 University of Huddersfield. (2019). *Children of Prisoners: Interventions and mitigations to strengthen mental health*, at p.486 [online]. Available from: <https://childrenofprisoners.eu/wp-content/uploads/2019/02/COPINGFinal.pdf> [accessed 19 May 2021].

72 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].



## The case for a national support service

In 2012, there was no national organisation in Ireland to support children and families affected by imprisonment. This remains the case in 2021.

There are a small number of community and voluntary organisations operating in Ireland that provide support to the families of people in prison. Specific projects set up to assist families who have a family member in prison include the Bedford Row Family Project in Limerick and Clare; New Directions in Dublin; and the St Nicholas Trust in Cork.<sup>73</sup> Other organisations, such as Care After Prison, Fusion CPL, and the Childhood Development Initiative, provide specific support programmes within their wider services.

The St. Nicholas Trust was set up in 2008 specifically to assist families visiting Cork Prison and they have developed three booklets containing information about the prison and its services, children's issues, and challenges arising upon release from prison. The leaflets are tailored to the needs of families visiting Cork Prison, but the information can be adapted to support families visiting all prisons.<sup>74</sup> Similarly, in 2019 the Family Support Network and U-Casadh published a booklet for families affected by imprisonment in Ireland's South East region, entitled *Families Matter Too*.<sup>75</sup> The booklet provides information tips to support families affected by imprisonment.

New Directions, established in 2018, offers a free, confidential information and support service for families affected by imprisonment. It provides one-to-one support and counselling to family members; group support and counselling for the family; practical information covering all aspects of the operation of the prison system; and restorative justice opportunities for families. It also advocates on behalf of families to highlight the impact of parental imprisonment and for enhanced services to meet their needs. New Directions fills a gap identified in the 2012 report for a Dublin-based service dedicated to supporting families of people in prison.

While the above services are extremely helpful to families affected by imprisonment in Ireland, they mostly operate in limited areas of the country and/or have limited resources at their disposal. There has been no mapping of the current services available, where they are, and what gaps exist in service provision,<sup>76</sup> and there is inconsistency in the information and support available to children and families across the country.

## Best Practice Example

### Families Outside, Scotland

Families Outside is a national Scottish charity that supports and improves outcomes for children and families affected by imprisonment.<sup>77</sup> The organisation has a Family Support team that provides children and families with: emotional support; detailed knowledge of the criminal justice system; information on prisons and prison procedures; information on housing, finance and benefits; and access to community services and specialised support.<sup>78</sup>

73 See for further information: <https://www.bedfordrow.ie/>; <https://familiesofprisoners.ie/>; <https://www.stnicholatrust.ie/> [all accessed 19 May 2021].

74 Department of Justice. (2021). *Cork Prison Visiting Committee Annual Report 2019*, at p.21 [online]. Available from: <http://www.justice.ie/en/JELR/Cork%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Cork%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

75 Family Support Network and U-Casadh. (2019). *Families Matter Too: Information & Support for Families of Prisoners in the South East of Ireland* [online]. Available from: <https://www.peerfamilysupport.org/wp-content/uploads/2019/08/Families-Matter-Too-Booklet.pdf> [accessed 11 April 2021].

76 IPRT, UCC and the Children's Rights Alliance. (2017). *Principles of Action for Children with a Parent in Prison* [online]. Available from: [https://www.iprt.ie/site/assets/files/6422/action\\_plan\\_for\\_children\\_with\\_a\\_parent\\_in\\_prison.pdf](https://www.iprt.ie/site/assets/files/6422/action_plan_for_children_with_a_parent_in_prison.pdf) [accessed 14 April 2021].

77 Families Outside: Supporting Families Affected by Imprisonment. (2021). *About Us* [online]. Available from: <https://www.familiesoutside.org.uk/about-us/> [accessed 14 April 2021].

78 Ibid.

## 2.2 Impact of Separation of a Child from an Imprisoned Parent

### The 2012 Research

Under Article 9(3) of the UNCRC, a child separated from their parent has a right to maintain personal relations and direct contact with both parents on a regular basis, unless it is contrary to the child's best interests.

The impact of separation of a child from their imprisoned parent was evident in the comments made by family members in IPRT's 2012 research:

*"He didn't know my birthday, he didn't know my favourite colour."*

(Adam, 11)

*"He [the child] thought he did something wrong. He'd be a real worrier. I know he felt that he had done something."*

(Nicola, Mother)

Experiences reflected wider research which has found that fathers in prison can feel unrecognised in their parental identity.<sup>79</sup> IPRT's 2012 research found that the adverse effects of parental imprisonment and separation became even more obvious upon release. One former prisoner spoke about the great relationship he had with his youngest child, in contrast to the poorer relationships he had with his older children. This was because he had been absent for most of their lives. Another former prisoner reported having good relationships with all his children but described himself as a "passenger" rather than a parent in his older children's lives. He felt he could not act in the regular parental capacity due to his absence from their lives.

### 2021 Policy Update

The impact of parent-child separation as a result of imprisonment was captured in a small-scale IPRT survey carried out with family members during

the Covid-19 pandemic, during which the impact of separation from a parent in prison has been further intensified:

*"I have to stay strong for when my daughter is crying for her Dad, and I can't tell her when she can see him, she hasn't seen him now in 5 months, he has always been in her life, and she has a very close bond with him, this [worries] me so much."*  
(Patricia, Primary Caregiver)<sup>80</sup>

A 2021 study carried out by the Centre for Criminology at the University of Oxford similarly described the negative effects of separation on both children and the parent in prison during the pandemic. Children in particular suffered from increasingly poor physical and mental health, which included weight loss, sleeplessness and nightmares, self-harm, increased anxiety and changes in behaviour (including increased anger and aggression).<sup>81</sup>

The 2019 UN *Global Study on Children Deprived of their Liberty* recommended that there be a presumption against a custodial measure or sentence for primary caregivers, given the "detrimental impact of family separation due to parental incarceration and the detrimental impact of deprivation of liberty with a parent."<sup>82</sup> The Study also recommends that support services are put in place for families at risk.

The Council of Europe 2018 Recommendation states:

*"[I]t is necessary to protect the child's right to, and need for, an emotional and continuing relationship with their imprisoned parent, who has a duty and right to play their parental role and to promote positive experiences for their children."*<sup>83</sup>

The 2018 Recommendation also states that prison governors should consider "significant events in a child's life - such as birthdays, first day of school or hospitalisation" when granting "prison leave" (e.g. temporary release) to imprisoned parents.<sup>84</sup>

79 McCrudden, E., Braiden, H.J., Sloan, D., McCormack, P. and Treacy, A. (2014). Stealing the Smile from My Child's Face: A Preliminary Evaluation of the "Being a Dad" Programme in a Northern Ireland Prison. *Child Care in Practice*, 20(3), pp.301-312.

80 Irish Penal Reform Trust. (2020). "I am worried about the lasting impact this will have": The experiences of people with a family member in prison during COVID-19 [online]. Available from: <https://www.iprt.ie/covid-19-in-prisons/i-am-worried-about-the-lasting-impact-this-will-have-the-experiences-of-people-with-a-family-member-in-prison-during-covid-19/> [accessed 10 March 2021].

81 Minson, S. (2021). *The impact of COVID-19 prison lockdowns on children with a parent in prison* [online]. Available from: [https://www.law.ox.ac.uk/sites/files/oxlaw/the\\_impact\\_of\\_covid-19\\_prison\\_lockdowns\\_on\\_children\\_with\\_a\\_parent\\_in\\_prison.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/the_impact_of_covid-19_prison_lockdowns_on_children_with_a_parent_in_prison.pdf) [accessed 19 May 2021].

82 Nowak, M. (2019). *The United Nations Global Study on Children Deprived of Liberty* [online]. Available from: [https://www.chr.up.ac.za/images/publications/UN\\_Global\\_Study/United%20Nations%20Global%20Study%20on%20Children%20Deprived%20of%20Liberty%202019.pdf](https://www.chr.up.ac.za/images/publications/UN_Global_Study/United%20Nations%20Global%20Study%20on%20Children%20Deprived%20of%20Liberty%202019.pdf) [accessed 10 March 2021].

83 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

84 Ibid.



## 2.3 Prison Visiting Conditions for Children

### The 2012 Research

In IPRT's 2012 research, numerous participants commented that prison visits were not suitable for children. Many described how regular exposure to the prison environment would have long-term adverse impacts on children, due to the potential 'normalisation' effect.

Non-contact visits were found to have a particularly negative effect as it often left young children confused about why their parent did not want to hug or touch them:

*"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."*

(Lucy, 7)

*"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."*

(Sarah, sister)

There were very positive reports in 2012 regarding some prison visitor centres.

The Parliamentary Assembly of the Council of Europe *Resolution on Women in Prison* in 2009 makes clear that all prisons should have visitors' centres, noting that such centres "may be particularly beneficial for young children."<sup>85</sup>

### 2021 Policy Update

Recent research carried out, primarily in Castlerea Prison, demonstrates the ongoing issues around child-friendly visiting procedures in Irish prisons.<sup>86</sup> The research describes how young children are unable to understand why they cannot touch their parent in prison, as well as the difficulties for children in staying still for long periods of time. The absence of toys for children to play with in prisons was also noted.

Since IPRT's original report, the Implementation Oversight Group of the PPRG (a group set up to track the implementation of the PPRG's recommendations in the 2014 *Strategic Review of Penal Policy*) has reported that counter-style visits have been removed from all prisons (except for three).<sup>87</sup> There now exist visitors' centres in the West Dublin, Mountjoy, and Midlands Prison campuses, with smaller visitors' centres in Cork Prison and Castlerea Prison.<sup>88</sup> Wheatfield Prison has also installed a visiting room with tables and chairs, which can facilitate a more relaxed family visit.<sup>89</sup> The new Cork Prison was built with provision for an outdoor family play area.

Despite these improvements in some visiting areas across the estate, a recent report from the Prison Chaplaincy Service indicates the need for more visiting slots and better visiting areas. In respect of children, the report noted:

*"Children are the innocent parties in the turmoil of having a father imprisoned; a few precious moments where they can play with their children would trigger a 'normal' valuable memory for the child."*<sup>90</sup>

<sup>85</sup> Resolution 1663 of the Parliamentary Assembly of the Council of Europe on Women in Prison (2009), Article 12.1.

<sup>86</sup> O'Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration*, at pp.51-52 [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

<sup>87</sup> Department of Justice. (2019). *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality* [online]. Available from: [http://www.justice.ie/en/JELR/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf/Files/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf](http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf) [accessed 19 May 2021].

<sup>88</sup> Houses of the Oireachtas. (2018). *Prison Facilities* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2018-06-12/518/> [accessed 19 May 2021].

<sup>89</sup> Department of Justice. (2021). *Wheatfield Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

<sup>90</sup> Department of Justice. (2021). *Mountjoy Prison Chaplaincy Service Annual Report March 2019-March 2020* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Mountjoy-March-2019-March-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Mountjoy-March-2019-March-2019.pdf) [accessed 20 May 2021].

Other areas of concern outlined in Chaplaincy reports include the lack of accommodation to facilitate children with health issues and children with autism.<sup>91</sup>

The Council of Europe 2018 Recommendation demands as follows regarding children's visits to prisons:

*“A designated children’s space shall be provided in prison waiting and visiting rooms (with a bottle warmer, a changing table, toys, books, drawing materials, games, etc.) where children can feel safe, welcome and respected. Prison visits shall provide an environment conducive to play and interaction with the parent. Consideration should also be given to permitting visits to take place in the vicinity of the detention facility, with a view to promoting, maintaining and developing child-parent relationships in as normal a setting as possible.”<sup>92</sup>*

At the time of writing, and as a result of Covid-19 restrictions, many children have had no in-person contact with their parent in prison for over a year. The lack of in-person visits has impacted children's relationships with their parents, notwithstanding the introduction of video calls and phones in cell, and this will have future implications for reunification and resettlement after prison.<sup>93</sup> The status of in-person family visits must therefore be continually reviewed and restrictions lifted as soon as possible in line with public health advice. Any restriction on visiting rights must be necessary and proportionate in each individual case. New approaches, such as the development of outdoor visiting areas, should also be developed.<sup>94</sup>

## Best Practice Examples

### The Sitting Room, Limerick Prison

In 2018, the Irish Human Rights and Equality Commission (IHREC) facilitated a working group in Limerick Prison to explore the experience of imprisonment for women. Contact and connection with family members was identified as being difficult in the visiting area in Limerick Prison. As a result, and in conjunction with the Bedford Row Family Project, Limerick Prison developed the concept of ‘The Sitting Room’.<sup>95</sup>

‘The Sitting Room’ is an informal, warm space that allows children to visit their parent in prison in a more normalised environment. The focus of ‘The Sitting Room’ is keeping the child at the centre of the visit.

There has been very positive feedback from children using the room, with comments including “[t]his is just like being at home” and “I like playing with the toys and kitchen.” One social care leader explained that it “makes a scary situation a lot less scary for the children.”<sup>96</sup> In recognition of this initiative, Limerick Prison received the Investing in Children Membership Award for its work with children and teenagers coming into contact with the criminal justice system.<sup>97</sup>

### Visitor Centres, Croatia

In Croatian visitor centres, there are posters on the walls of what the prison looks like inside, which provides children with a better understanding of daily life for their parent in prison.<sup>98</sup> The Croatian Ombudsman's Office also regularly visits prisons to monitor children's visiting facilities and meet with prison staff.<sup>99</sup>

91 Department of Justice. (2021). *Wheatfield Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

92 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

93 Irish Penal Reform Trust. (2021). *Irish Prisons and COVID-19: One Year On* [online]. Available from: [https://www.iprt.ie/site/assets/files/6901/covid-19\\_in\\_prisons\\_one\\_year\\_on.pdf](https://www.iprt.ie/site/assets/files/6901/covid-19_in_prisons_one_year_on.pdf) [accessed 19 May 2021].

94 Ibid.

95 Bedford Row Family Project. (2021). *Our Work* [online]. Available from: <https://www.bedfordrow.ie/our-work/> [accessed 19 May 2021].

96 *Investing in Children Membership Award, Evaluation of Limerick Prison and Bedford Row Family Project*, Unpublished.

97 Department of Justice. (2021). *Limerick Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Limerick%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Limerick%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

98 Children of Prisoners Europe. (2020). *Keeping children connected to a parent in prison in the Covid-19 crisis and beyond* [video online]. Available from: <https://www.youtube.com/watch?v=Vx8BcdGwu6s> [accessed 18 March 2021].

99 Children of Prisoners Europe. (2018). *Child Talk: A Reflective Toolkit for the Prison Administrators and Staff on Supporting the Child-Parent Relationship* [online]. Available from: <https://childrenofprisoners.eu/toolkit-for-prison-administrators-and-staff-on-supporting-child-parent-relationship/> [accessed 14 April 2021].

### Approaches in Scandinavia

Every Swedish prison has a trained ‘*children’s ombudsman*’ tasked with advocating for the best interests of children with imprisoned parents.<sup>100</sup> In Finland, a 2015 law makes provision for all prisons to have ‘special visiting rooms’ for children who are visiting a parent. In these rooms, children can touch and hug their parents.<sup>101</sup> In Denmark, children’s officers are deployed to make prison visits more child-friendly.<sup>102</sup> Denmark also allows prisoners and their children to avail of outdoor facilities.<sup>103</sup> The development of outdoor visiting facilities would be particularly helpful in Ireland in light of the pandemic experience.

## 2.4 Stigmatisation of Children

### The 2012 Research

The stigma associated with having a parent in prison is evidenced by many children’s reluctance to tell others about their parent’s imprisonment.<sup>104</sup>

In the 2012 research, children with a parent or a family member in prison reported being teased, with name-calling and bullying common. This often resulted in the child ‘acting out’ by becoming aggressive towards peers or other family members. In these cases, the child was often punished by the schoolteacher with little or no consequences for their peers who had provoked the child.

Children often did not want their peers to know about their parent’s imprisonment. Children felt less ashamed when they found out that other kids in their school had parents 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.”*  
(Jo, Mother)

### 2021 Policy Update

Article 2 of the UNCRC makes clear that children have the right not to be discriminated against because of the ‘status and activities’ of their parents.

Previous meetings of the UN Committee on the Rights of the Child have discussed children of incarcerated parents. During these discussions, the importance of tackling social stigma was highlighted and it was recommended that education programmes be developed so that prisoners’ children are not subject to stigmatisation, social exclusion or discrimination.<sup>105</sup>

In overcoming adversities and stigma, teachers can play a vital role in supporting children who have a parent in prison by being a stable and trusted adult in the child’s life. There are a number of ways in which schools can consider supporting children of imprisoned parents, e.g. through awareness-raising and training of teachers and providing additional

100 Ibid.

101 Penal Reform International and Office for Democratic Institutions and Human Rights. (2018). *Guidance Document on the Nelson Mandela Rules*, at p.128 [online]. Available from: [https://cdn.penalreform.org/wp-content/uploads/2018/07/MR\\_Guidance\\_Doc.pdf](https://cdn.penalreform.org/wp-content/uploads/2018/07/MR_Guidance_Doc.pdf) [accessed 14 April 2021].

102 Scharff-Smith, P. and Jakobsen, J. (2011). The Danish case study. In Scharff-Smith, P. and Gampell L., eds. *Children of Imprisoned Parents*. Denmark: Danish Institute of Human Rights, pp.58-121.

103 Ibid.

104 Convery, U. and Moore, L. (2011). Children of Imprisoned Parents and their Problems. In Scharff-Smith, P. and Gampell L., eds. *Children of Imprisoned Parents*. Denmark: Danish Institute of Human Rights, pp.12-30.

105 Robertson, O. (2012). *Collateral Convicts: Children of Incarcerated Parents Recommendations and Good Practice from the UN Committee on the Rights of the Child* [online]. Geneva: Quaker United Nations Office. Available from: [https://www.quono.org/sites/default/files/resources/ENGLISH\\_Collateral%20Convicts\\_Recommendations%20and%20good%20practice.pdf](https://www.quono.org/sites/default/files/resources/ENGLISH_Collateral%20Convicts_Recommendations%20and%20good%20practice.pdf) [accessed 30 April 2021].

learning / homework support to children affected.<sup>106</sup> The Council of Europe 2018 Recommendation in particular outlines the role professionals play in educating the public on the impact of imprisonment for children and families:

*“The media, professionals, and the general public should be provided with reliable and up-to-date data and good practice examples to increase their awareness regarding the numbers of children affected and the impact of parental imprisonment, and to avoid negative stereotyping and stigmatisation of children with imprisoned parents.”<sup>107</sup>*

## Best Practice Examples

### Anti-Bullying Strategies, Families Outside, Scotland

Families Outside (the Scottish charity that supports families affected by imprisonment) has published a briefing on the role of schools in supporting children of imprisoned parents.<sup>108</sup> One of the recommendations in this briefing is to actively reduce bullying by incorporating issues around imprisonment into the school curriculum.

### Teacher Training, Families Outside, Scotland

Families Outside offers teacher training in order to help teachers identify and support children with an imprisoned parent. These training sessions are held in prisons so as to allow the teachers experience all the stages of a prison visit and hear stories about children who are affected.<sup>109</sup>

### ‘What’s Behind the Wall’, Polish Prison Service

‘What’s Behind the Wall’ is a book published by the Polish Prison Service that explains prison in a child-friendly way. While children of prisoners primarily receive this book, it has also been distributed to professionals working with children such as social workers and psychologists. The book is also available in elementary schools for children who have never had a parent in prison in order to teach empathy and understanding.<sup>110</sup>

### ‘Bring Your Father to Class day at school’, Croatia

In Croatia, an animated short story has been created to raise awareness of parental imprisonment.<sup>111</sup>

106 Children of Prisoners Europe. (2017). First Port of Call: The role of schools in supporting children with imprisoned parents. *European Journal of Parental Imprisonment* [online], 6. Available from: [https://childrenofprisoners.eu/wp-content/uploads/2019/02/EJPI\\_06\\_2017-ENGLISH\\_Web.pdf](https://childrenofprisoners.eu/wp-content/uploads/2019/02/EJPI_06_2017-ENGLISH_Web.pdf) [accessed 19 May 2021].

107 *Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

108 Families Outside. (2012). *The Role of Schools in Supporting Families Affected by Imprisonment* [online]. Available from: <http://www.familiesoutside.org.uk/content/uploads/2012/10/In-Brief-7-Oct-12-1.pdf> [accessed 14 April 2021].

109 Children of Prisoners Europe. (2014). *Teacher Training* [online]. Available from: <https://childrenofprisoners.eu/database/teacher-training/> [accessed 20 May 2021].

110 Children of Prisoners Europe. (2019). *What’s Behind the Wall* [online]. Available from: <https://childrenofprisoners.eu/database/whats-behind-the-wall/> [accessed 20 May 2021].

111 Children of Prisoners Europe. (2020). *Advocacy tool to raise awareness and support for children with imprisoned parents (Croatia)* [online]. Available from: <https://childrenofprisoners.eu/advocacy-tool-to-raise-awareness-and-support-for-children-with-imprisoned-parentscroatia/> [accessed 20 May 2021].

## 2.5 Children’s Mental Health

### The 2012 Research

Most families interviewed in 2012 reported a change in children’s behaviour due to their parent or their family member’s imprisonment:

*“The child was, he’s brilliant most of the 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.”*

**(Mary, Grandparent & Primary Caregiver)**

The importance of family support services was clear, with frequent use of the words “*stability*” and “*routine*” when describing these services. The services helped children adapt to their parent’s imprisonment. (See 2.1 above.)

At EU level, the COPING Project conducted a large-scale study of children affected by imprisonment between 2010 and 2012. The aim of the Project was to understand the mental health needs of prisoners’ children and involved interviewing 200 children with imprisoned parents across four countries: Romania, Sweden, Germany, and the UK. The Project found that children with imprisoned parents are at significantly greater risk of suffering mental health difficulties than children who do not have parents in prison.<sup>112</sup> It also identified several factors that can support a child’s resilience, including:<sup>113</sup>

- stability provided by caregiving parents;
- sustaining and maintaining relationships with the imprisoned parent;
- the parent’s relationship with the child before imprisonment; and

- support from other extended family member.

### 2021 Policy Update

The imprisonment of a household member is recognised as one of ten Adverse Childhood Experiences (ACEs) known to have long-term negative effects on children’s health and well-being.<sup>114</sup> As mentioned, the *Growing Up in Ireland* study found that children who had been affected by parental imprisonment reported higher levels of anxiety at the age of nine and lower levels of happiness at the age of 13.<sup>115</sup> In other studies, the primary caregivers of children affected by imprisonment also reported children as experiencing higher levels of emotional difficulties.<sup>116</sup>

Research has demonstrated the need for the IPS and Tusla to develop a strategy so that prisoners’ families are aware of supports available to them in the community, such as Family Resource Centres (these are centres run by Tusla in the community, which aim to combat disadvantage and improve the functioning of the family unit).<sup>117</sup> It remains the case that some families are reluctant to engage with Tusla due to perceptions around child protection; this issue needs to be addressed by Tusla so as to restore trust in its services.

A dedicated national organisation to support children and families affected by imprisonment would further assist in supporting children’s mental health. Children of prisoners serving life sentences should be provided with specific and tailored psychological support.<sup>118</sup>

112 University of Huddersfield. (2019). *Children of Prisoners: Interventions and mitigations to strengthen mental health* [online]. Available from: <https://childrenofprisoners.eu/wp-content/uploads/2019/02/COPINGFinal.pdf> [accessed 19 May 2021].

113 Ibid.

114 Beresford, S., Loucks, N. and Raikes, B. (2016). The health impact on children affected by parental imprisonment. *BMJ Paediatrics* [online], 4(1). Available from: <https://bmjpaedsopen.bmj.com/content/4/1/e000275> [accessed 23 March 2021].

115 Bradshaw, D., Hannigan, A., Creaven, A. M., & Muldoon, O. T. (2020). Longitudinal associations between parental incarceration and children’s emotional and behavioural development: Results from a population cohort study. *Child: care, health and development*, 46(2), 195–202. Available from: <https://doi.org/10.1111/cch.12732> [accessed 29 June 2021].

116 Bradshaw, D., Creaven, A. M., & Muldoon, O. T. (2021). Parental incarceration affects children’s emotional and behavioral outcomes: A longitudinal cohort study of children aged 9 to 13 years. *International Journal of Behavioral Development*, 45(4). Available from: <https://doi.org/10.1177/0165025421995918> [accessed 29 June 2021].

117 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf>; Tusla. (2021). *Family Resource Centres* [online]. Available from: <https://www.tusla.ie/services/family-community-support/family-resource-centres/> [both accessed 19 May 2021].

118 UN Committee on the Rights of the Child. (2019) *Concluding observations on the combined fourth to sixth periodic reports of Bahrain*, at p.9 [online]. Available from: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fBH.R%2fCO%2f4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fBH.R%2fCO%2f4-6&Lang=en) [accessed 19 May 2021].

## 2.6 Improving the Relationship between Children and Parents in Prison

### The 2012 Research

In 2012, when asked what could be made better for children affected by imprisonment, requests included:

*“I’d like that thing where Dad gets to come home for a day.”*  
(Simon, 7)

*“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.”*  
(Sarah, Mother)

*“A small area with pretend grass where they can kick a football where they have that physical release.”*  
(Nicole, Parent)

In the 2012 research, participants identified that there were differences in how the relationship of an imprisoned mother and her child was facilitated in the Dóchas Centre, as compared to the relationship between an imprisoned father and his child in other Irish prisons. For example, in the Dóchas Centre, research showed there were approximately 12 roundtables and a small play area for children visiting. This was in stark contrast to visiting conditions in most of the male prisons.

### 2021 Policy Update

The Council of Europe 2018 Recommendation states:

*“It is necessary to protect the child’s right to, and need for, an emotional and continuing relationship with their imprisoned parent, who has a duty and right to play their parental role and to promote positive experiences for their children.”*<sup>119</sup>

The European COPING Project, the study that interviewed more than 200 children of imprisoned parents across four countries, found that, in the majority of cases, maintaining contact with an imprisoned parent is beneficial to a child’s mental health needs and well-being. Positive environments are needed for children to visit their parents, and the importance of telephone contact was underlined.<sup>120</sup> Another finding of the European COPING Project was that children missed their fathers as much as their mothers.<sup>121</sup>

In 2018, the Minister for Justice confirmed that all prisons have designated areas to facilitate family visits including a family-friendly space, roundtables or family seating, and access to play materials. The Minister also stated that temporary release for access / visits to children for family occasions is “regularly approved in most prisons.”<sup>122</sup> However, no breakdown regarding the use of temporary release was provided by the Minister and this information is not publicly available.

In 2019, the Minister said that the Governor-led Families and Imprisonment Group in the IPS was exploring “best practices in community support and resettlement for families with an imprisoned parent, in conjunction with Tusla and others.”<sup>123</sup> No information about this work has been made publicly available to date.

In its 2019 report, the Implementation Oversight Group for the PPRG recommended that the IPS Families and Imprisonment Group provide a policy on visiting conditions standards.<sup>124</sup> As far as IPRT is aware, no such policy has yet been developed or published.

119 CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

120 University of Huddersfield. (2019). *Children of Prisoners: Interventions and mitigations to strengthen mental health*, at p.486 [online]. Available from: <https://childrenofprisoners.eu/wp-content/uploads/2019/02/COPINGFinal.pdf> [accessed 19 May 2021].

121 Ibid.

122 Department of Justice. (2018). *Parliamentary Question 518* [online]. Available from: <http://www.justice.ie/en/JELR/Pages/PQ-12-06-2018-518> [accessed 14 April 2021].

123 Department of Justice. (2019). *Parliamentary Question 27* [online]. Available from: <http://www.justice.ie/en/JELR/Pages/PQ-16-05-2019-27> [accessed 12 April 2021].

124 Department of Justice. (2019). *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality* [online]. Available from: [http://www.justice.ie/en/JELR/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf/Files/IOG\\_Seventh\\_Report\\_of\\_the\\_Implementation\\_Oversight\\_Group\\_to\\_the\\_Minister\\_for\\_Justice\\_and\\_Equality.pdf](http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf) [accessed 19 May 2021].

## Best Practice Examples

### Art Workshops via Video Call, Italy

In Italy, the charity *Bambinisenzasbarre* allows children to draw and paint on video calls with their parent in prison. The aim is to create a relaxed atmosphere and encourage the child to chat with their parent during the call. This is called an ‘Art Party’.<sup>125</sup>

### Papa Plus Model, Bulgaria

It is estimated that 96% of imprisoned parents in Europe are fathers.<sup>126</sup> The *Papa Plus Model* was introduced in Bulgaria in 2018 in response to a lack of programming for fathers in prison and the prison staff working with them.<sup>127</sup> The *Papa Plus Model* aims to strengthen children’s rights by supporting the bond between father and child. It was introduced against the backdrop of the Council of Europe’s 2018 Recommendation and focuses on supporting and strengthening the child-father bond, minimizing risks to that relationship, and protecting children’s development. It also serves to raise awareness amongst prison personnel on how their daily work can incorporate children’s rights and needs.

## 2.7 Mothers in Prison

### The 2012 Research

It proved particularly difficult to access children of imprisoned mothers during the 2012 research and no such children were interviewed. At the time, this was partially attributed to the lower numbers of women among the prison population.

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Most imprisoned women are mothers of children under 18 years of age. They are also more likely than male prisoners to be the primary carer of a child.<sup>128</sup> The imprisonment of a mother is accordingly more likely to be disruptive to children.

There are no official statistics available in Ireland to ascertain the number of children whose mothers are in prison. As identified earlier, based on extrapolations, the Council of Europe has suggested that 204 children in Ireland are separated from an imprisoned mother on any given day. A more recent ‘face to face’ one-question survey was conducted in both Limerick and Dóchas female prison in 2015. There was a 97% response rate to the survey, and it confirmed that 78% of those surveyed were mothers (of both young and adult children).<sup>129</sup>

Under the Irish Prison Rules 2007, a child can be admitted to prison to remain with their mother until the age of 12 months.<sup>130</sup> While provision for mothers with babies is available in the Dóchas Centre, there are currently no facilities for mothers and babies in Limerick Prison. Expectant mothers in Limerick Prison are transferred to the Dóchas Centre in their last trimester and remain there after the birth of their child.<sup>131</sup>

The Parliamentary Assembly of the Council of Europe *Resolution on Women in Prison* recommends that states should:

*“Ensure that mothers in custody are placed in prisons within a reasonable distance and travelling time of their families.”<sup>132</sup>*

125 Children of Prisoners Europe (2020). *Keeping children connected to a parent in prison in the Covid-19 crisis and beyond* [video online]. Available from: <https://www.youtube.com/watch?v=Vx8BcdGwu6s> [accessed 18 March 2021].

126 Children of Prisoners Europe. (2018). *Support for Fathers, Support for Children: A Briefing of the Papa Plus Initiative* [online]. Available from: <https://childrenofprisoners.eu/stakeholder-briefings/> [accessed 19 May 2021].

127 Ibid.

128 Townhead, L. (2006). *Women in Prison and Children of Imprisoned Mothers* [online]. Available from: <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/WiP-Recent-UN-developments-200603.pdf> [accessed 21 August 2012].

129 O’ Malley, S. (2018). *Motherhood, mothering and the Irish prison system*. PhD thesis, NUI Galway. Available from: <https://aran.library.nuigalway.ie/handle/10379/14612> [accessed 24 March 2021].

130 Rule 17(2), Prison Rules 2007.

131 Houses of the Oireachtas. (2019). *Prisoner Data* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2019-10-01/266/> [accessed 19 May 2021].

132 *Resolution 1663 of the Parliamentary Assembly of the Council of Europe on Women in Prison* (2009), Article 12.1.

The United Nations *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (“the Bangkok Rules”) further outlines several best practices for pregnant women or women who have babies and/or children in prison. This includes Rule 64, which 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>133</sup>

Rule 34.1 of the revised European Prison Rules 2006 state that “specific gender-sensitive policies shall be developed and positive measures shall be taken to meet the distinctive needs of women prisoners in the application of these rules.” It also states that authorities should pay particular attention to women’s caregiving responsibilities. There are several provisions around infants staying in prison, including that “[s]pecial accommodation shall be set aside to protect the welfare of such infants.”<sup>134</sup>

In 2018, the Joint Oireachtas Committee on Justice and Equality recommended the development of Mother and Baby Units in Irish prisons:

*“Mother and Baby Units should be developed within the Irish prison system, along the lines of those in some women’s prisons in England and Wales, which support female offenders in cohabiting with their children in a purpose-built facility. Participation in such a scheme would be supported on the basis of the needs and*

*well-being of the child, and the promotion and maintenance of family life.”*<sup>135</sup>

In 2020, following a review, the Ministry of Justice in England & Wales announced a number of reforms, including the introduction of a resident mother and baby specialist in all female prisons, not only those with Mother and Baby Units.<sup>136</sup> It is not clear whether the new female wing in Limerick Prison (due to be completed by the end of 2021)<sup>137</sup> will include a Mother and Baby Unit. No detailed information is available on the design or operation of the existing Mother and Baby Unit in the Dóchas Centre.

It is worth noting that women in the Dóchas Centre and Limerick Prison were asked by researchers for their opinion on the design of the new Limerick Prison. Many of the women struggled to identify what they would like to see in the new prison and what they asked for was relatively small, like hanging space for clothes and softer lighting. The researchers described the women as being “unable to think outside of the box” as a result of their limited experience of aesthetically pleasing, nurturing environments. When the women saw designs for HMP Inverclyde, they could not believe it was a prison, commenting “That’s the nicest room I’ve ever seen.”<sup>138</sup>

### Best Practice Example

#### External Mother Units, Spain

Spanish prisons house mothers with children in “external mother units” that allow mothers to exercise the parental role in a way that better promotes the child’s normal development and enable children to attend schools in their community.<sup>139</sup>

133 United Nations General Assembly. (2010). *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (‘the Bangkok Rules’)*, at p.2 [online]. Available from: <http://www.ihra.net/files/2010/11/04/english.pdf> [accessed 19 May 2021].

134 European Prison Rules 2006 (updated July 2020), rule 36.3.

135 Houses of the Oireachtas. (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing* [online]. Available from: [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf) [accessed 23 March 2021].

136 Ministry of Justice (2020) *Improvements to care for pregnant women and mothers in prison*, available at: <https://www.gov.uk/government/news/improvements-to-care-for-pregnant-women-and-mothers-in-prison> [accessed 30 June 2021].

137 Houses of the Oireachtas. (2021). *Capital expenditure Programme* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2021-03-24/1241/> [accessed 23 March 2021].

138 Jewkes, Y., Jordan, M., Wright, S. and Bendelow, G. (2019). Designing ‘Healthy’ Prisons for Women: Incorporating Trauma-Informed Care and Practice (TICP) into Prison Planning and Design. *Int J Environmental Research and Public Health* [online], 16(20). Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6843283/> [accessed 19 May 2021].

139 Children of Prisoners Europe. (2018). *Child Talk: A Reflective Toolkit for the Prison Administrators and Staff on Supporting the Child-Parent Relationship* [online]. Available from: <https://childrenofprisoners.eu/toolkit-for-prison-administrators-and-staff-on-supporting-child-parent-relationship/> [accessed 14 April 2021].



## Chapter Three: Issues of Concern for Families during the Criminal Justice Process

In 2012, families identified many issues of concern that went beyond the prison system and touched on wider concerns about the criminal justice system. This chapter highlights a number of these issues as follows: the impact of arrest and treatment by members of An Garda Síochána; the pre-trial and sentencing process; access to information; the media's intrusion; and the stigma associated with imprisonment.

### 3.1 The Impact of Arrest and Treatment by Gardaí

#### The 2012 Research

The impact of arrest on children can determine a child's future engagement with authorities:

*“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>140</sup>*

In 2012, there was a consensus among the research participants that those living in disadvantaged communities were over-policed and constantly harassed.

Under Article 19 of the UN 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 be followed before, during and

after arrest.

Recommended protocols include:

- identifying if the person being arrested is a primary carer;
- compiling a list of groups that may need to be made aware when a primary carer is arrested, such as social workers;
- providing training on how to seek parental cooperation if the child is present; and
- identifying if there is an alternative carer for the child.<sup>141</sup>

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The upset for a child in seeing any family member but especially their primary caregiver being arrested in the early hours of the morning has been documented in recent Irish research.<sup>142</sup>

In 2017, a *Code of Ethics* was developed and published by the Policing Authority for members of An Garda Síochána.<sup>143</sup> This requires An Garda Síochána to take special consideration of specific categories of people, including children, and to challenge any behaviour that demonstrates discrimination or disrespect, particularly in regards vulnerable individuals or minority groups.

The Council of Europe 2018 Recommendation states:

*“Due consideration should be given by the police to the impact that arrest of a parent may have on any child present. In such cases, where possible, arrest should be carried out in the absence of the child or at a minimum, in a child sensitive manner.”<sup>144</sup>*

In the recent European Court of Human Rights case

140 Robertson, O. (2007). *The Impact of Parental Imprisonment on Children*, at p.15 [online]. Geneva: Quaker United Nations Office. Available from: [https://www.quno.org/sites/default/files/resources/ENGLISH\\_The%20impact%20of%20parental%20imprisonment%20on%20children.pdf](https://www.quno.org/sites/default/files/resources/ENGLISH_The%20impact%20of%20parental%20imprisonment%20on%20children.pdf) [accessed 30 April 2021].

141 Other materials relating to the appropriate procedures to be followed when arresting a primary caregiver include: International Association of Chiefs of Police. (2014). *Safeguarding Children of Arrested Parents* [online]. Available from: [https://www.theiacp.org/sites/default/files/pdf/Safeguarding-Children-of-Arrested-Parents-Final\\_Web\\_v3.pdf](https://www.theiacp.org/sites/default/files/pdf/Safeguarding-Children-of-Arrested-Parents-Final_Web_v3.pdf) [accessed 10 June 2021]; and Children of Incarcerated Parents Project. (2015). *Toolkit for Developing Parental Arrest Policies* [online]. Available from: <https://www.urban.org/sites/default/files/publication/53731/2000254-Toolkit-for-Developing-Parental-Arrest-Policies.pdf> [accessed 10 June 2021].

142 O'Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

143 Policing Authority (2017) *Code of Ethics for the Garda Síochána* [online]. Available from: [http://www.justice.ie/en/JELR/Policing\\_Authority\\_Code\\_of\\_Ethics.pdf/Files/Policing\\_Authority\\_Code\\_of\\_Ethics.pdf](http://www.justice.ie/en/JELR/Policing_Authority_Code_of_Ethics.pdf/Files/Policing_Authority_Code_of_Ethics.pdf) [accessed 19 May 2021].

144 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

of *A v Russia*<sup>145</sup> the Court found the State was in breach of Article 3 ECHR (prohibition of torture) following the violent arrest of a man in front of his nine-year-old daughter. The Court held that the State authorities should have taken the child's best interests into account when planning for the arrest of the child's father.

### 3.2 Pre-Trial & Sentencing

#### The 2012 Research

The significant uncertainty experienced by families at the pre-trial stage was documented in the 2012 research. Some individuals described being “on edge” while awaiting trial and preparing for their family member to be absent from the home.

The 2012 research outlined the relevant human rights standards underpinning the use of pre-trial detention as a last resort (such as the UN Standard Minimum Rules for Non-custodial Measures (‘the Tokyo Rules’))<sup>146</sup>; the potential significance of Articles 3 and 12 UNCRC to decisions around pre-trial detention and punishment of a primary carer<sup>147</sup>, including that a person's children should be considered, and heard, in connection with such proceedings; and the 2009 *Resolution on Women in Prison* from the Parliamentary Assembly of the Council of Europe that calls on Member States 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>148</sup>

In IPRT's 2012 research, it was clear that the moment of sentencing was particularly significant for families. For example, the most basic things such as “being

offered a cup of tea” after the sentence was imposed were identified as being important:

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

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Pre-trial procedures can disrupt a child's life in several ways. For example, it can interfere with their education at school, create uncertainty in their household and make it difficult for them to maintain contact with their parent/caregiver.<sup>149</sup>

Children often feel their views are not taken into account during sentencing.<sup>150</sup> Child impact statements have been proposed as one way to address this and allow children an opportunity to be heard in the pre-trial and sentencing processes.

The Council of Europe 2018 Recommendation states:

*“Without prejudice to the independence of the judiciary, before a judicial order or a sentence is imposed on a parent, account shall be taken of the rights and needs of their children and the potential impact on them. The judiciary should examine the possibility of a reasonable suspension of pre-trial detention or the execution of a prison sentence and their possible replacement with community sanctions or measures.”*<sup>151</sup>

A key priority identified by COPE is that a child's best interests and rights are considered when making decisions on pre-trial detention. Examples of the kinds of considerations which might be relevant include “*child-parent contact, proximity of parent to home, active communication, and information channels concerning the parent's situation*”.<sup>152</sup> COPE

145 *A v. Russia*, Application no. 37735/09, 12 November 2019.

146 UN Standard Minimum Rules for Non-Custodial Measures, Article 6(1).

147 Article 3(1) states: “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.” UN Convention on the Rights of the Child, Article 3 (1).

148 *Resolution 1663 of the Parliamentary Assembly of the Council of Europe on Women in Prison* (2009), Article 8.4.

149 Children of Prisoners Europe. (2021). *Impacts of pre-trial detention procedures on children with parents in conflict with the law* [online]. Available from: [https://childrenofprisonerseurope.wildapricot.org/resources/Impacts%20of%20pre-trial%20detention%20procedures%20on%20children%20with%20parents%20in%20conflict%20with%20the%20law\\_COPE.pdf](https://childrenofprisonerseurope.wildapricot.org/resources/Impacts%20of%20pre-trial%20detention%20procedures%20on%20children%20with%20parents%20in%20conflict%20with%20the%20law_COPE.pdf) [accessed 23 March 2021].

150 Prison Reform Trust. (2020) *The importance of child impact assessments for children affected by maternal imprisonment* [online]. Available from: <http://www.prisonreformtrust.org.uk/WhatWeDo/Projectsresearch/Women/News/vw/1/ItemID/785> [accessed 23 March 2021].

151 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

152 Children of Prisoners Europe. (2021). *Impacts of pre-trial detention procedures on children with parents in conflict with the law* [online]. Available from: [https://childrenofprisonerseurope.wildapricot.org/resources/Impacts%20of%20pre-trial%20detention%20procedures%20on%20children%20with%20parents%20in%20conflict%20with%20the%20law\\_COPE.pdf](https://childrenofprisonerseurope.wildapricot.org/resources/Impacts%20of%20pre-trial%20detention%20procedures%20on%20children%20with%20parents%20in%20conflict%20with%20the%20law_COPE.pdf) [accessed 23 March 2021].

further recommends that formal mechanisms are put in place to ensure these considerations are given attention.

Between 2017 and 2019, the number of people held in pre-trial detention in Ireland increased by 21%.<sup>153</sup> The proportion of female committals on remand has increased steadily from 62% in 2013 to 71% of all female committals in 2017.<sup>154</sup> An IPS interim report shows that, in the period 2016–2019, over a quarter (26.6%) of women on remand had a charge in the category of ‘theft and related offences’ as their most serious offence. This figure contrasts with only 13% for men.<sup>155</sup> Given that women will often be the primary caregivers for children, these figures are particularly concerning.

The Law Reform Commission (LRC) recommended in its report on *Suspended Sentences* that family circumstances should be a mitigating factor when deciding on whether a sentence should be suspended, particularly for pregnant women and women with dependent children.<sup>156</sup> This is included in the report as part of the LRC’s draft sentencing principles, which are set out to provide guiding principles governing the use of the suspended sentences.<sup>157</sup>

The Sentencing Guidelines and Information Committee (SGIC) was established in 2020 under the Judicial Council Act 2019. One of the functions of the Committee is to prepare sentencing guidelines, monitor the operation of those guidelines and collate information on sentences imposed by the courts in Ireland.<sup>158</sup> While no sentencing guidelines have been prepared or published to date, three key principles that should be included are: (1) imprisonment as a last resort; (2) presumption in favour of a community sentence where a primary caregiver is being sentenced; and (3) a requirement

to consider the impact of imprisonment on the child in circumstances where the primary caregiver may be imprisoned. It is important to state ‘primary caregiver’ in order to recognise that the same standards should apply to children of imprisoned parents / caregivers, regardless of that person’s gender and biological role.<sup>159</sup>

### Best Practice Examples

#### Rebalancing the Scales, Children of Prisoners Europe

Children of Prisoners Europe have created a short video, *Rebalancing the Scales*, to create awareness among the judiciary and the legal profession of the rights-based issues affecting children when a primary caregiver is being tried.<sup>160</sup>

#### Guidelines for Magistrates, England & Wales

New guidance has been published for magistrates in England & Wales to raise awareness among those passing sentences that checks should be made to ensure that children and dependents are appropriately cared for and supported.<sup>161</sup> This follows the introduction of a new ‘General Guideline: Overarching Principles’ by the Sentencing Council, effective from October 2019, that outlines how those sentencing should consider the fact someone is a sole or primary carer for dependent relatives.<sup>162</sup>

153 Irish Penal Reform Trust. (2021). *Progress in the Penal System (PIPS) Assessing progress during a pandemic (2020)* [online]. Available from: [https://www.iprt.ie/site/assets/files/6845/progress\\_in\\_the\\_penal\\_system\\_2020.pdf](https://www.iprt.ie/site/assets/files/6845/progress_in_the_penal_system_2020.pdf) [accessed 19 May 2021].

154 Finn C. (2020). *Women on Remand – Interim Report for IPRT 13/08/20* [unpublished].

155 Ibid.

156 Law Reform Commission. (2020). *Report on Suspended Sentences*, at pp.117–118 [online]. Available from: <https://publications.lawreform.ie/Portal/External/en-GB/RecordView/Index/61649> [accessed 19 May 2021].

157 See *Appendix B* Law Reform Commission. (2020). *Report on Suspended Sentences* [online]. Available from: <https://publications.lawreform.ie/Portal/External/en-GB/RecordView/Index/61649> [accessed 19 May 2021].

158 *Judicial Council Act 2019*. No 33/2019. [Online]. Available from: <http://www.irishstatutebook.ie/eli/2019/act/33/section/23/enacted/en/html#sec23> [accessed 19 May 2021].

159 Halton, L. and Townhead, L. (2020). *Children of Incarcerated Parents: International Standards and Guidelines* [online]. Geneva: Quaker United Nations Office. Available from: [https://quano.org/sites/default/files/resources/QUNO%20-%20Children%20of%20Incarcerated%20Parents%20-%20Intl%20Standards%20and%20Guidelines\\_02032020.pdf](https://quano.org/sites/default/files/resources/QUNO%20-%20Children%20of%20Incarcerated%20Parents%20-%20Intl%20Standards%20and%20Guidelines_02032020.pdf) [accessed 19 May 2021].

160 Children of Prisoners Europe. (2015). *Rebalancing the scales: Child rights when sentencing parents* [online]. Available from: <https://childrenofprisoners.eu/rebalancing-the-scales-child-rights-when-sentencing-parents/> [accessed 19 May 2021].

161 PACT. (2020). *Left Behind* [online]. Available from: <https://www.prisonadvice.org.uk/left-behind> [accessed 23 March 2021]. See also Minson, S. *Information for Primary Carers facing Sentencing in the Criminal Courts*. Available from: <https://shonaminson.com/information-for-primary-carers-facing-sentencing-in-the-criminal-courts/> [accessed 20 June 2021].

162 Sentencing Council. (2019) *General guideline: overarching principles*. Available from: <https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/general-guideline-overarching-principles/> [accessed 20 June 2021].

### 3.3 Lack of Information

#### The 2012 Research

Families spoken to during IPRT’s 2012 research reported a notable absence of information throughout each stage of the criminal justice system. For example, families often were not told about their family member’s transfer 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 childbirth and 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.”*  
(Jo, Partner)

The revised European Prison Rules 2006 state:

*“Prisoners shall be allowed to inform their families immediately of their imprisonment, their transfer to another institution and of any serious illness or injury they may suffer.”*<sup>163</sup>

The UNCRC further makes clear that the:

*“...State Party shall, upon request, provide the 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.”*<sup>164</sup>

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The lack of information provided to families, and the confusion for families when their loved one is committed to prison, has been documented in more recent domestic research.<sup>165</sup>

For example, families reported being unsure about who to contact and finding it difficult to get through to the prison on the main prison telephone number. Some were also not given the information they sought, due to confusion about their status as next of kin and whether they had the right to information.<sup>166</sup>

The Council of Europe 2018 Recommendation states:

*“On admission and on a prisoner’s transfer, prison authorities shall assist prisoners who wish to do so in informing their children (and their caregivers) of their imprisonment and whereabouts or shall ensure that such information is sent to them.”*<sup>167</sup>

Having a Family Liaison Officer in each prison could support this function. While the Irish Prison Service reported that the Family Links Programme was to be rolled out to all prisons in 2019, this has not yet happened.<sup>168</sup>

#### Best Practice Examples

##### Family Links, Northern Ireland

In Northern Ireland, Family Links is an independent service offered by NIACRO. Family Links is funded by the Northern Ireland Prison Service, the Health and Social Care Board and the Western Health and Social Care Trust. It provides families with information on visiting the prison, contacting a relative, transport to the prison, benefits/welfare, managing money, engaging with school, and accessing other services.<sup>169</sup>

##### Yellow Telephone, Italy

An Italian charity, *Bambinisenzasbarre*, provides a service entitled Yellow Telephone, which provides a support system to families. Family members can call the line for visiting information, legal information and broader emotional support.<sup>170</sup>

<sup>163</sup> European Prison Rules 2006 (updated July 2020), rule 24.8.

<sup>164</sup> Convention on the Rights of the Child, Article 9.4.

<sup>165</sup> O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

<sup>166</sup> Ibid, at pp.50-51.

<sup>167</sup> *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

<sup>168</sup> Irish Prison Service. (2019). *Annual Report 2018*, at p.41 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Annual-Report-2018.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf) [accessed 18 March 2021].

<sup>169</sup> NIACRO. (2021). *Family Links* [online]. Available from: <https://www.niacro.co.uk/family-links> [accessed 18 March 2021].

<sup>170</sup> Children of Prisoners Europe (2020). *Keeping children connected to a parent in prison in the Covid-19 crisis and beyond* [video online]. Available from: <https://www.youtube.com/watch?v=Vx8BcdGwu6s> [accessed 18 March 2021].

### 3.4 Media Intrusion

#### The 2012 Research

Intrusion by the media was widely reported by families in the 2012 research. This included attempts to take photographs of family members while on the way into court, incidents where members of the media had “hounded” families to their front door, and persistent phone calls being made in an attempt to obtain an interview with family members at a distressing time for them:

*“I was actually followed in the toilet in the court. He actually followed me into the toilet.”*  
(Siobhan, Partner)

There was also a sense among interviewees that the media exaggerated or fabricated details of court cases. There was a great sense of shame leading to many individuals being unable to read the newspapers. 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.”*  
(Rebecca, Mother)

#### 2021 Policy Update

The right to privacy and family life is protected under Article 8 ECHR, which has been ratified by Ireland.

The Press Council of Ireland *Code of Practice* 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>171</sup>*

Members of the media should apply this principle when dealing with families affected by imprisonment.

The Press Ombudsman of Ireland has produced a leaflet to support prisoners in ensuring that members of the media adhere to the Press Council *Code of Practice*.<sup>172</sup> The *Code of Practice* contains eleven principles that member publications should follow. These include requirements that publications:

- must strive for truth and accuracy (Principle 1);
- cannot publish comment as if it were fact (Principle 2);
- should not obtain information through misrepresentation or harassment unless justified in the public interest (Principle 3);
- must respect private family life (Principle 5); and
- must ensure court reports are fair and accurate (Principle 7).

If a prisoner wants to report a breach of the *Code of Practice*, information must be submitted to the Press Council of Ireland within three months of the article’s publication. This is a short timeframe given prisoners’ limited contact with the outside world. There are several examples of complaints to the Press Council relating to people in prison and/or in contact with the criminal justice system, which have achieved varying degrees of success.<sup>173</sup>

As the Council of Europe 2018 Recommendation states:

<sup>171</sup> Press Council of Ireland. (2021). *Code of Practice* [online]. Available from: <http://www.presscouncil.ie/code-of-practice.150.html> [accessed 19 May 2021].

<sup>172</sup> Press Council of Ireland. (2021). *How the Press Ombudsman can Assist Prisoners* [online]. Available from: <http://www.presscouncil.ie/office-of-the-press-ombudsman-164/making-a-complaint/prisoners> [accessed 19 May 2021].

<sup>173</sup> Examples, all from the Press Council of Ireland, include: 582/2020 - *A Woman and the Sunday World* [online]. Available from: <https://www.presscouncil.ie/Decided-by-the-Press-Ombudsman/5822020-a-woman-and-the-sunday-world>; 554/2020 - *A Woman and the Irish Daily Star* [online]. Available from: <https://www.presscouncil.ie/Decided-by-the-Press-Ombudsman/5542020-a-woman-and-the-irish-daily-star>; 395/2020 - *A Father and the Waterford News & Star* [online]. Available from: <https://www.presscouncil.ie/Decided-by-the-Press-Ombudsman/3952020-a-father-and-the-waterford-news-star>; and 375/2020 - *A Woman and The Southern Star* [online]. Available from: <https://www.presscouncil.ie/Decided-by-the-Press-Ombudsman/3752020-a-woman-and-the-southern-star> [all accessed 20 May 2021].

*“Information provided to, and by, the media should not violate the right to privacy and protection of children and their families, including data protection rules, and any media reporting should be carried out in a child-friendly manner.”<sup>174</sup>*

### 3.5 Stigma

#### The 2012 Research

The research carried out in 2012 made apparent the stigma attached to having a family member imprisoned:

*“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.”*

**(Deirdre, 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, or you know. Just maybe wasn’t as much there for me as I kinda expected him to be.”*

**(Noeline, Mother)**

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...”*

**(Jo, Mother)**

*“Obviously, you do the crime you do the time, but we’re getting punished, as well as the kids.”*

**(Nicole, Partner)**

#### 2021 Policy Update

In 2012, IPRT identified the need to educate the public about the impact of imprisonment on children and families. Since then, there have been a small number of documentaries on life both in prison and life on the outside for families. These went some way towards demystifying prison and showing the reality and shared humanity with people detained. Almost 10 years on, however, it is clear that much remains to be done to support and not further punish the children and families of people in prison.

Awareness-raising needs to be sensitive and truthful regarding the experiences of children with a parent in prison and their families. Challenging stigma also requires action from professionals such as teachers, social workers, mental health professionals, and so on.

<sup>174</sup> CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

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

This chapter identifies the various problems facing families when visiting prisons. In IPRT’s 2012 research, families were asked about their proposals for changes to the prison visiting system. Most families did not ask for substantial changes, and broadly accepted that certain routines must remain the same in order to ensure drugs are prevented from entering the prison system. Several areas for improvement of the visiting experience, however, were identified.

### 4.1 Visitors’ Booking System

#### The 2012 Research

In 2012, the lack of access to the visits booking system was an issue consistently identified by families throughout the research:

*“Ringin’ 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.”*  
(Catherine, Partner)

*“...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. One day 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.’”*  
(Anne, Mother)

#### 2021 Policy Update

The Irish Prison Service has introduced an online booking system for prison visits. (This was one of IPRT’s recommendations in 2012.) An information booklet for families has also been produced in a number of languages, and a video on what to expect when visiting a prison.<sup>175</sup> Following the introduction of video calls across the prison estate in 2020, information to assist families in how to access video calls was produced in booklet and video form, and a helpline was established.

Nevertheless, there remain difficulties for family members in booking visits, particularly by phone.<sup>176</sup> While online booking is available, the digital divide means that not all families can access the internet to avail of this service.<sup>177</sup> Booking visits has been described as being “close to impossible” in one prison<sup>178</sup> and booking by telephone is described as “virtually impossible” in another.<sup>179</sup> The 2019 Dóchas Chaplaincy Report stated:

*“The level of distress that this creates amongst both the women and their loved ones, particularly children cannot be underestimated. The Chaplaincy Service is inundated with phone calls from families at their wits’ end who have been ringing for days to try to book a visit without success on a regular basis. Distress amongst older parents and grandparents of prisoners is particularly high as online bookings are not a realistic option for them.”<sup>180</sup>*

175 Irish Prison Service. (2020). *Visit a Prison* [online]. Available from: <https://www.irishprisons.ie/what-to-expect-when-visiting-a-prison/> [accessed 19 May 2021].

176 See Dóchas Centre Chaplaincy Report 2019; Castlerea Chaplaincy Report 2019; Mountjoy Chaplaincy Report April 2018-March 2019 [all online]. Available from: <https://www.irishprisons.ie/information-centre/publications/chaplains-reports/>. See also Castlerea Prison Visiting Committee Annual Report 2019; Dóchas Prison Visiting Committee Annual Report 2019; Mountjoy Prison Visiting Committee Annual Report 2019 [all online]. Available from: <http://www.justice.ie/en/JELR/Pages/Prison-Visiting-Committee-Annual-Reports>; and O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

177 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

178 Department of Justice. (2021). *Dóchas Centre Prison Chaplaincy Service Annual Report 2019*, at p.8 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Dochoas-Centre-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Dochoas-Centre-2019.pdf) [accessed 20 May 2021].

179 Department of Justice. (2021). *Castlerea Prison Chaplaincy Service Annual Report 2019*, at p.5 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Castlerea-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Castlerea-2019.pdf) [accessed 20 May 2021].

180 Department of Justice. (2021). *Dóchas Centre Prison Chaplaincy Service Annual Report 2019*, at p.8 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Dochoas-Centre-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Dochoas-Centre-2019.pdf)

## 4.2 Rigorous Search Procedures

### The 2012 Research

Family members consulted in 2012 felt a sense of criminalisation as a result of the rigorous search procedures used during prison visits:

*“And you’re treated like you have got something on ya”  
(Anne, Sister)*

*“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?”  
(Catherine, Mother)*

The search procedures for children were particularly frightening:

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

### 2021 Policy Update

Research from 2019 has reported visitors’ negative experiences of the search area in prisons. This included unsympathetic or abusive treatment from prison officers and intrusive personal searches.<sup>181</sup> Participants in this particular study recognised the need for security and safety, but expressed their view that something could be put in place to support families so as to avoid what felt like “unwarranted broad-brush approaches to security”.<sup>182</sup> Another report from 2019 documented the negative experiences of family members in the arrival and search area of Mountjoy Prison.<sup>183</sup>

The Council of Europe 2018 Recommendation states that:

*“Any security checks on children shall be carried out in a child-friendly manner that respects children’s dignity and right to privacy, as well as their right to physical and psychological integrity and safety. Any intrusive searches on children, including body cavity searches, shall be prohibited.”<sup>184</sup>*

[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Dochas-Centre-2019.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Dochas-Centre-2019.pdf) [accessed 20 May 2021].

181 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

182 Ibid.

183 Department of Justice. (2021). *Mountjoy Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

184 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

185 Children of Prisoners Europe. (2018). *Child Talk: A Reflective Toolkit for the Prison Administrators and Staff on Supporting the*

### Best Practice Example

#### Prison Procedures, Sweden

In Sweden, prison officers use puppets to distract children and make searches more child friendly.<sup>185</sup>



### 4.3 Refusal of Visits due to Sniffer Dogs

#### The 2012 Research

One of the most frequent issues raised during the 2012 research was concern about the accuracy of the sniffer dogs used during security screening for visitors to Irish prisons. There was a consensus among all concerned that the dogs were making mistakes too often. Research participants said that prisoners could predict if their family member would get a visit by the colour or age of the dog that was on duty. The rejection of open visits confused and angered family members.

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

(Joan, Grandparent/Primary Caregiver)

*“...they’re totally devastated then getting no visit. No explanation only that the dog said no, end of story.”*

(Annette, Partner)

#### 2021 Policy Update

There is some evidence that the refusal of visits due to sniffer dogs remains an issue. Complaints regarding dogs were raised by prisoners to the Limerick Prison Visiting Committee.<sup>186</sup> However, the exact nature of these complaints is not detailed in the Committee’s report.

The pressure placed on prisoners who are ‘clean’ and their families to bring drugs into prison is an issue. Despite efforts, including the use of sniffer dogs, drugs continue to enter the prison system.<sup>187</sup> In addressing this issue, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) highlights the need for good intelligence and to ensure that incompatible categories of prisoners are not accommodated together nor associate with each other.<sup>188</sup> IPRT

agrees that the appropriate approach to this issue of drug-related intimidation is pro-active investigation by the authorities, with a focus on those suspected of directing such intimidatory tactics. Efforts to tackle such behaviours should not result in a reduction in family visits, or further restrictions on family visits, for everyone in prison. To take such an approach would be disproportionate and unfair to the vast majority of prisoners and family members who are not involved in bringing drugs into prison.

#### Best Practice Example

##### Child-friendly search procedures, Europe

In some countries, posters illustrate the search process for children, including information on search dogs, so as to inform and reassure children. Further examples of child-specific information provision from prisons include the Italian ‘map’ of prisons for children, ‘Trovopapa’. This has been replicated in Germany as the ‘Bear Buddy’.<sup>189</sup>

*Child-Parent Relationship* [online]. Available from: <https://childrenofprisoners.eu/toolkit-for-prison-administrators-and-staff-on-supporting-child-parent-relationship/> [accessed 14 April 2021].

186 Department of Justice. (2021). *Limerick Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Limerick%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Limerick%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

187 Department of Justice. (2021). *Wheatfield Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

188 Council of Europe. (2020). *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 23 September to 4 October 2019* [online]. Available from: <https://rm.coe.int/1680a078cf> [accessed 19 May 2021].

189 See: *Bambinisenzasbarre. Documentaries and Short Movies* [online]. Available from: <https://www.bambinisenzasbarre.org/about-us/#docu> [accessed 25 May 2021]; and *Children of Prisoners Europe, Bear Buddy* [online]. Available from: <https://childrenofprisoners.eu/database/bear-buddy/> [accessed 25 May 2021].

## 4.4 Prison Visiting Conditions

### (i.) Overview

#### The 2012 Research

The 2012 research found that many prisoners did not want their families visiting due to the environment being unnatural. The lack of privacy for adults, and the difficulties of having private conversations in visiting rooms due to noise and overcrowding, were also identified in previous research.<sup>190</sup> Safety during visits, in particular for children, was also mentioned as an issue by numerous participants in 2012:

*“There’d be brawls on the visits. Their nerves are gone. That’s why my kid stopped going.”*  
(Jo, Partner)

#### 2021 Policy Update

Visitor facilities have been replaced or renovated in a number of prisons including Cork Prison, Midlands Prison and Arbour Hill Prison.<sup>191</sup> In 2017 the then Director-General of the IPS committed to implementing roundtable visits across the prison estate to make visits more child-friendly.<sup>192</sup> In 2018, the Minister for Justice confirmed that all prisons have child-friendly visiting conditions.<sup>193</sup> (See 2.6 above.)

Despite these commitments, it is clear that there remain problems with visiting conditions in Irish prisons. Complaints in 2018 and 2019 to the Mountjoy Prison Visiting Committee included: inability to book a visit; insufficient time slots; difficulties of visits with young children; reported hostile treatment at security checks; and loss of family visits.<sup>194</sup>

In 2019, the Shelton Abbey Prison Visiting Committee recommended that an enhanced visitor’s area, and particularly a designated space for children, be introduced. This was after the Committee found that there was “no play space” for children visiting their fathers, “despite the submission of a very comprehensive plan a number of years ago.”<sup>195</sup>

In their 2020 report, the CPT also recommended that prisoners on a restricted regime be offered a one-hour weekly visit in open conditions, given that they cannot have any safe contact with the rest of the prison population.<sup>196</sup> The Government’s response to this was that it had to be careful not to incentivise prisoners to go “on protection”.<sup>197</sup>

Aside from the above, there has been very little discussion around prison visiting conditions and family contact in Irish prisons over the past few years. This is an area that requires robust oversight and monitoring. Such oversight could potentially be provided by the Office of the Inspector of Prisons and/or the Ombudsman for Children’s Office and consideration should be given to these bodies carrying out a review or inspection of prison visiting conditions from a child’s rights perspective.

#### Best Practice Example

##### Loughan House, Ireland

A positive practice in Loughan House is that visits are conducted every day of the week and are unrestricted in duration. In 2019, the Loughan House Prison Visiting Committee identified it as being of “extremely valuable benefit to prisoners and their families in terms of maintaining outside links and aiding their resocialisation.”<sup>198</sup>

190 Bedford Row. (2007). *Voices of Families Affected by Imprisonment* [online]. Available from: <https://www.bedfordrow.ie/research/> [accessed 21 May 2021].

191 Department of Justice. (2021). *Arbour Hill Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Arbour%20Hill%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Arbour%20Hill%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

192 Donnellan, M. (2017) *Ireland’s Examination under UNCAT – Oral hearing* [unpublished speech].

193 Houses of the Oireachtas. (2018). *Prison Facilities* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2018-06-12/518/> [accessed 19 May 2021].

194 Department of Justice. (2021). *Mountjoy Prison Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

195 Department of Justice. (2021). *Shelton Abbey Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Shelton%20Abbey%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Shelton%20Abbey%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

196 Council of Europe. (2020). *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 23 September to 4 October 2019* [online]. Available from: <https://rm.coe.int/1680a078cf> [accessed 19 May 2021].

197 Council of Europe. (2020). *Response of the Government of Ireland to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ireland from 23 September to 4 October 2019* [online]. Available from: <https://rm.coe.int/1680a078d1> [accessed 20 May 2021].

198 Department of Justice. (2020). *Loughan House Visiting Committee Annual Report 2019* [online]. Available from: <http://www.justice.ie/en/JELR/Loughan%20House%20Visiting%20Committee%20Annual%20Report%202019.pdf>

## (ii.) The Impact of Screened Visits

### The 2012 Research

In 2012, the visiting facilities in Cloverhill Prison (primarily a remand prison) were described as inadequate and unfair, with all visits screened:

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

At the time of the 2012 research, and in addition to Cloverhill Prison, there was a blanket ban on physical contact between prisoners and their families in a number of prisons. This issue caused serious upset to family members. The effect that glass partitions was having on children was best summed up by a child kissing a glass window pane at home because it was similar to the experience of visiting her father in prison.

### 2021 Policy Update

There remains an issue around screened visits at Cloverhill Prison. One of the concerns raised by prisoners to the Cloverhill Prison Visiting Committee in 2019 was visiting rights, and specifically the question of non-screened visits for family members and small children in particular.<sup>199</sup>

Under the Prison Rules 2007, a prison governor may *“allow physical contact between a prisoner and a visitor when he/she is satisfied that such contact will not facilitate the entry into the prison of controlled drugs or other prohibited substances.”*<sup>200</sup> According to the revised European Prison Rules 2006:

*“Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of 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>201</sup>

There is accordingly no basis for a blanket policy of screened visits and all visits should be as open as possible, allowing physical contact, unless there is a specific reason why that cannot be facilitated.

## (iii.) Family Visits

### The 2012 Research

It was a common remark that routine prison visits were not *“normal”* and they were not relaxed, with many family members and prisoners indicating that they would rather not have visits because of this. By contrast, special family visits, which occur in a private room where the family, the prisoner and a prison officer are present, were seen (by some) as positive:

*“The special visit is good cause we can hug him. There’s not loads of people really talking so people can actually hear ya.”* (Lucy, 7)

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

### 2021 Policy Update

Special family visits continue to afford prisoners and their families with greater privacy and space for children to play. The setting allows prisoners and their families to take photographs and have a cup of tea. The current position, however, is that only prisoners on an enhanced regime are eligible for these special visits.<sup>202</sup>

Neutral venue visits (i.e. visits with family outside of prison) have been identified by Chaplaincy reports as particularly important to prisoners’ sentence management and rehabilitation.<sup>203</sup> Chaplains have further described neutral venue visits as a success, and it has been suggested that such visits need to be incorporated into the IPS strategic plan.

ie/en/JELR/Loughan%20House%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Loughan%20House%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf [accessed 19 May 2021].

199 Department of Justice. (2021). *Cloverhill Prison Visiting Committee Annual Report 2019*, at p.4 [online]. Available from: <http://www.justice.ie/en/JELR/Cloverhill%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Cloverhill%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

200 Rule 36(7)(b), Prison Rules 2007.

201 European Prison Rules 2006 (updated July 2020), rule 24.2.

202 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

203 Department of Justice. (2021). *Arbour Hill Prison Chaplaincy Service Annual Report Chaplains Report April 2019–March 2020* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Arbour-Hill-April-19-March-20\\_1\\_1.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Arbour-Hill-April-19-March-20_1_1.pdf); and Department of Justice. (2021). *Midlands Prison Chaplaincy Service Annual Report Chaplains Report 2019* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Midlands-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Midlands-2019.pdf) [both accessed 19 May 2021].

## 4.5 Other Forms of Family Contact: Video Calls, Phonecalls, and Letters

### The 2012 Research

Families' experiences of correspondence and phone calls were reported as follows in the 2012 research:

*“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.”*  
(Nicole, Partner)

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

### 2021 Policy Update

Rule 24.2 of the revised European Prison Rules 2006 states:

*“Prisoners shall be allowed to communicate as often as possible - by letter, telephone or other forms of communication - with their families, other persons and representatives of outside organisations and to receive visits from these persons.”*<sup>204</sup>

Research has identified that short phone calls with family members in prison results in a lack of involvement in decision-making from the parent in prison. This in turn can have negative consequences for individuals' reintegration upon release.<sup>205</sup>

In 2017, an unpublished survey conducted by DataKind, the IPS, and IPRT showed that prisoners would like more access to alternative forms of contact, including more telephone calls and the use of video calls.<sup>206</sup> IPRT accordingly called for the wider

availability of phone and video calls.<sup>207</sup>

During the Covid-19 pandemic, the Director-General of the IPS introduced in-cell phones in the Dóchas Centre and Cork Prison, with an additional 400 cells now equipped with in-cell telephones and a further 600 cells to be equipped during 2021. It is welcome that the IPS intends to introduce telephones in all prison cells across the estate “as a matter of priority.”<sup>208</sup> The provision of telephones will allow individuals to have greater privacy when talking to their family member and may also reduce the number of individuals seeking to procure an illegal mobile phone in prison.<sup>209</sup>

Before the Covid-19 pandemic, there were limitations in the availability of video calls.<sup>210</sup> Following the suspension of prison visits in 2020, video calls were rolled out across the prison estate.<sup>211</sup> The Director-General has acknowledged that many of the innovations introduced as a result of the Covid-19 pandemic would continue to benefit prisoners and their families upon return to normal, and she has indicated that such measures will be retained.<sup>212</sup> This commitment must be met and positive measures, such as the use of video calls, now need proper investment to ensure they are fully operational throughout the prison estate.

As outlined by the Council of Europe 2018 Recommendation:

*“In accordance with national law and practice, the use of information and communication technology (video-conferencing, mobile and other telephone systems, internet, including webcam and chat functions, etc.) shall be facilitated between face-to-face visits and should not involve excessive costs. Imprisoned parents shall be assisted with the costs of communicating with their children*

<sup>204</sup>European Prison Rules 2006 (updated 2020), rule 24.1.

<sup>205</sup>O'Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

<sup>206</sup>DataKind, Irish Prison Service, and IPRT. (2017). *Survey with the Irish Prison Population* [unpublished].

<sup>207</sup>Irish Penal Reform Trust. (2017). *Progress in the Penal System (PIPS): A framework for penal reform (2017)*, at action 11.1 [online]. Available from: [https://www.iprt.ie/site/assets/files/6431/progress\\_in\\_the\\_penal\\_system\\_compressed.pdf](https://www.iprt.ie/site/assets/files/6431/progress_in_the_penal_system_compressed.pdf) [accessed 23 March 2021].

<sup>208</sup>McCaffrey C. (2021). *Remarks at the Launch of the IPRT Progress in the Penal System Report 2020* [speech], 26th January 2021, Zoom. Available from: [https://www.iprt.ie/site/assets/files/6836/caron\\_mccaffrey\\_iprt\\_pips\\_2020\\_launch.pdf](https://www.iprt.ie/site/assets/files/6836/caron_mccaffrey_iprt_pips_2020_launch.pdf) [accessed 23 March 2021].

<sup>209</sup>Department of Justice. (2021). *Mountjoy Prison Chaplaincy Service Annual Report March 2019-March 2020* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Mountjoy-March-2019-March-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Mountjoy-March-2019-March-2019.pdf) [accessed 20 May 2021].

<sup>210</sup>Department of Justice. (2021). *Wheatfield Prison Visiting Committee Annual Report 2019*, at p.3 [online]. Available from: <http://www.justice.ie/en/JELR/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Wheatfield%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [accessed 19 May 2021].

<sup>211</sup>Irish Prison Service. (2020). *Important notice regarding the introduction of family video visits in Irish Prisons* [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Important-notice-regarding-the-introduction-of-family-video-visits-in-Irish-Prisons.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Important-notice-regarding-the-introduction-of-family-video-visits-in-Irish-Prisons.pdf) [accessed 19 May 2021].

<sup>212</sup>McCaffrey C. (2021). *Remarks at the Launch of the IPRT Progress in the Penal System Report 2020* [speech], 26th January 2021, Zoom. Available from: [https://www.iprt.ie/site/assets/files/6836/caron\\_mccaffrey\\_iprt\\_pips\\_2020\\_launch.pdf](https://www.iprt.ie/site/assets/files/6836/caron_mccaffrey_iprt_pips_2020_launch.pdf) [accessed 23 March 2021].

*if their means do not allow it. These means of communication should never be seen as an alternative which replaces face-to-face contact between children and their imprisoned parents.”<sup>213</sup>*

Delays in sending out and receiving post has been raised as an issue of concern.<sup>214</sup> A practical recommendation from the Prison Chaplaincy Service suggests that this could be resolved through a clearer “*date coded system*”, which shows when the censor’s office received the letter and when the letter was posted out.<sup>215</sup> IPRT has also received reports from criminal defence solicitors that there are significant delays in the processing of correspondence between people in prison and their families.<sup>216</sup> This causes significant upset and frustration for prisoners and their loved ones, particularly around occasions such as birthdays and Christmas.

## 4.6 Interaction between Prison Officers and Families

### The 2012 Research

While it was consistently acknowledged by families interviewed for the original research that many prison officers were professional and courteous, there were also reports of negative attitudes among a minority of prison officers:

*“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.”*  
(Anne, Mother)

Often, feelings of anxiety arose during visits. It was found to be confusing, particularly for children, in circumstances where one week, the imprisoned parent was allowed to hold and cuddle their child, and the next week they were not. The importance of small things, like a parent in prison giving sweets to their child, arose time and time again. In circumstances where small acts like this were not permitted, it would often result in upset and rows on the visits.

### 2021 Policy Update

The Mountjoy Prison Visiting Committee has highlighted repeated reports from family members that they are being demeaned by staff upon entry to the prison. The Visiting Committee has called for an urgent review of this aspect of prison interface with the public.<sup>217</sup>

The Council of Europe 2018 Recommendation states:

*“Appropriate training on child-related policies, practices, and procedures shall be provided for all staff in contact with children and their imprisoned parents.”<sup>218</sup>*

213 CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

214 Mountjoy Prison Chaplaincy Service Annual report April 2018 - March 2019 [online]. Available from: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Mountjoy-April-2018-March-2019.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Mountjoy-April-2018-March-2019.pdf)

215 Ibid.

216 Kenny, M. (2021) *Comments at IPRT Prison Law Seminar* [unpublished speech], on 25 February 2021, Zoom. Summary available from: <https://www.iprt.ie/upcoming-events/prison-law-seminar-the-prison-rules/> [accessed 20 May 2021].

217 Department of Justice. (2019). *Mountjoy Prison Visiting Committee Annual Report 2017*, at p.5 [online]. Available from: [http://www.justice.ie/en/JELR/Mountjoy\\_Prison\\_Visiting\\_Committee\\_Annual\\_Report\\_2017.pdf/Files/Mountjoy\\_Prison\\_Visiting\\_Committee\\_Annual\\_Report\\_2017.pdf](http://www.justice.ie/en/JELR/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf); Department of Justice. (2021). *Mountjoy Prison Visiting Committee Annual Report 2019*, at p.5 [online]. Available from: <http://www.justice.ie/en/JELR/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf/Files/Mountjoy%20Prison%20Visiting%20Committee%20Annual%20Report%202019.pdf> [both accessed 19 May 2021].

218 CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

## Best Practice Examples

### Memorandum of Understanding and Charter for Children of Imprisoned Parents, Italy

Italy has implemented a Memorandum of Understanding between the Ministry of Justice, the National Ombudsman for Childhood and Adolescence, and the charity Bambinisenzasbarre regarding the fulfilment and protection of the rights of children of imprisoned parents and to establish a Charter for Children of Imprisoned Parents.<sup>219</sup> Following signature of the Memorandum, Bambinisenzasbarre developed a training programme to improve relationships between staff, prisoners, families and children, and develop professional standards of duties and behavior of staff towards family members.<sup>220</sup>

### Child-friendly checklist, COPE

COPE has produced a checklist for prison administrators and staff, which aims to share suggestions and good practice around supporting the child-parent relationship with prison administrators and staff in an accessible way.<sup>221</sup> Some questions to consider include:

- Is the child's right to maintain contact with their parent honoured in prison system practices and protocols?
- Are decisions about prison protocols made with due consideration of children's voices?
- Is child-friendly information about prisons made available to children with an imprisoned parent?

## 4.7 Financial Costs

### The 2012 Research

The 2012 report detailed the significant disadvantage that imprisonment of a family member places upon families, with many coming from the poorest socio-economic backgrounds.<sup>222</sup> There are considerable financial difficulties for families affected by imprisonment:

*“The earnings of one member of the family are lost, and there may be considerable expense associated with accessing prison visits. In cases where the latter is an issue, this can prove particularly problematic where there are no state financial supports to facilitate such visits. For example, in Ireland, while there is a possibility of the ‘exceptional needs payment’, this is a once-off means-tested welfare payment and is not specifically designated for this purpose.”<sup>223</sup>*

The financial costs and time involved in travelling long distances to visit their family member, and in particular by those who had children, was brought up often. Many families reported travelling a whole day to make a 30-minute visit; this often required a day off work which further deepened the financial burden.<sup>224</sup> It was also highlighted that if visitors were late by five minutes, they could be turned away despite having travelled a great distance:

*“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.”  
(Paul, 12)*

219 Bambinisenzasbarre. (2016). *Memorandum of Understanding Text* [online]. Available from: <https://www.bambinisenzasbarre.org/text-rights-charter-of-children-of-prisoners/> [accessed 19 May 2021].

220 Penal Reform International and Office for Democratic Institutions and Human Rights. (2018). *Guidance Document on the Nelson Mandela Rules*, at p.125 [online]. Available from: <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf> [accessed 14 April 2021].

221 Children of Prisoners Europe. (2018). *Child Talk: A Reflective Toolkit for the Prison Administrators and Staff on Supporting the Child-Parent Relationship* [online]. Available from: <https://childrenofprisoners.eu/toolkit-for-prison-administrators-and-staff-on-supporting-child-parent-relationship/> [accessed 14 April 2021].

222 Bradshaw, D., Hannigan, A., Creaven, A. M., and Muldoon, O. T. (2020). Longitudinal associations between parental incarceration and children's emotional and behavioural development: Results from a population cohort study. *Child: Care Health and Development*, 46(2), pp.195–202. Available from: <https://doi.org/10.1111/cch.12732> [accessed 29 June 2021].

223 Donson, F. and Parkes, A. (2012) Changing mindsets, changing lives: increasing the visibility of children's rights in cases involving parental incarceration. *International Family Law*, 4, pp.408–413.

224 Ibid.

Other issues included prison visiting hours not linking up with public transport timetables; visiting hours for special family visits scheduled at inconvenient times, including during working or school hours; and the financial burden on families providing for the person in prison. Changes to the prisoner gratuity scheme in 2012,<sup>225</sup> which introduced incentivisation but also an overall reduction in the daily allowance, added to the financial burdens facing families:

*“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.”*

(Linda, Mother)

## 2021 Policy Update

It has been highlighted by the Minister for Justice that prisoners’ families may receive assistance under the Governor’s Discretionary Fund to “assist them with urgent expenditure or where a specific need arises.”<sup>226</sup> However, no specific or regular financial supports have been introduced to support the families of prisoners. In 2015, the CPT invited Irish authorities to examine the possibility of providing financial assistance to those female prisoners who do not have the necessary means to maintain regular contact with their dependent children.<sup>227</sup> No such scheme has been made available by the Government.

In recent research conducted by the Childhood Development Initiative, all of the family participants affected by imprisonment spoke of household

income being lower during their family member’s imprisonment. This lower income was experienced at the same time that household expenses increased, including through the cost of travel to visit the prisoner and the need to lodge money in prison for the prisoner to buy necessities from the tuck-shop.<sup>228</sup>

Distance is still an issue for families travelling to prisons.<sup>229</sup> The catchment area for Castlerea Prison is particularly extensive and visiting the prison can involve significant expense and effort for families, often resulting in less frequent visits. In this respect, the IPS should be aware of the Council of Europe 2018 Recommendation which states:

*“Whenever a parent is detained, particular consideration shall be given to allocating them to a facility close to their children.”<sup>230</sup>*

The State previously provided some financial assistance to families on a discretionary basis, through Community Welfare Officers, but this no longer appears to be the case.<sup>231</sup> Almost a decade on, the standard daily gratuity rate under the Incentivised Regimes Policy remains €1.70.<sup>232</sup> A review on the Incentivised Regimes Policy, due to be carried out in 2017, remains unpublished.<sup>233</sup> The payment should now be reviewed, with consideration given to the lack of financial supports for families who carry the economic burden of imprisonment.

225 Irish Prison Service. (2012). *Incentivised Regimes Policy* [online]. Available from: <http://www.irishprisons.ie/images/pdf/incentivisedregimespolicy.pdf> [accessed 19 May 2021].

226 Houses of the Oireachtas. (2019). *Irish Prison Service* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2019-03-26/480/> [accessed 19 May 2021].

227 Council of Europe. (2015). *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 16 to 26 September 2014* [online]. Available from: <https://rm.coe.int/pdf%20/1680727e23>. [accessed 10 March 2021].

228 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

229 Irish Penal Reform Trust. (2020). *“I am worried about the lasting impact this will have”: The experiences of people with a family member in prison during COVID-19* [online]. Available from: <https://www.iprt.ie/covid-19-in-prisons/i-am-worried-about-the-lasting-impact-this-will-have-the-experiences-of-people-with-a-family-member-in-prison-during-covid-19/> [accessed 10 March 2021].

230 *CM/Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents* [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

231 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

232 Houses of the Oireachtas. (2020). *Prisoner Gratuity Payments* [online]. Available from: <https://www.oireachtas.ie/en/debates/question/2020-05-13/341/> [accessed 10 March 2021].

233 Department of Justice. (2017). *Parliamentary Question 317* [online]. Available from: <http://www.justice.ie/en/JELR/Pages/PQ-20-09-2017-317> [accessed 10 March 2021].

## Best Practice Examples

### Assisted Prison Visits Scheme, UK

In the UK, the Assisted Prison Visits Scheme provides financial support for visits to families on low incomes.<sup>234</sup> The visitor must be on some type of benefit from the State. Assistance is given for one visit every two weeks and up to 26 visits over 12 months. A contribution to the cost of an overnight stay is provided if a family member cannot travel back and forth to the prison in one day. Under this programme, a family member can also get help with the cost of childcare if a family member must pay for a registered childcare provider to look after children during the visit.<sup>235</sup>

### Prison Service, Cyprus

In Cyprus, the prison service has a budget specifically for transporting children to and from prisons for visits.<sup>236</sup>

### National Traveller Money Advice and Budgeting Service, Ireland

The National Traveller Money Advice and Budgeting Service (MABS) has created a guide offering financial advice for organisations working with the families of Travellers in prison.<sup>237</sup> The guide is split into three sections: social welfare issues and housing entitlements; housing issues and entitlements; and managing budgets.

234 Ministry of Justice. (2011). *Information for Families HMP Full Sutton January 2011*, at pp.3-5 [online]. Available from: <http://www.justice.gov.uk/downloads/contacts/prison-finder/10004C83InformationforFamiliesJanuary2011.pdf> [accessed 20 May 2021].

235 Child Poverty Action Group. (2019). *Financial help for families affected by imprisonment* [online]. Available from: <https://cpag.org.uk/welfare-rights/resources/factsheet/financial-help-families-affected-imprisonment> [accessed 14 April 2021].

236 Children of Prisoners Europe. (2018). *Child Talk: A Reflective Toolkit for the Prison Administrators and Staff on Supporting the Child-Parent Relationship* [online]. Available from: <https://childrenofprisoners.eu/toolkit-for-prison-administrators-and-staff-on-supporting-child-parent-relationship/> [accessed 14 April 2021].

237 National Traveller MABS. (2020). *Financial advice for Travellers with a Family member in prison: A guide for organisations working with families of Travellers in prison* [online]. Available from: <https://www.ntmabs.org/publications/development/2020/nt-mabs-financial-advice-for-travellers-in-prison-2020.pdf> [accessed 20 May 2021].



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

### 5.1 Family Worries and the Importance of Family Support Services

#### The 2012 Research

Despite all the hardships placed on families, the focus of those participating in the 2012 research was always on the safety of their 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.”*  
(Anne, Mother)

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

*“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.”*  
(Deirdre, Mother)

On the question of family support services, while many of the individuals spoken to in 2012 were apprehensive about engaging with services, those who did had strong and positive views about their experiences, as well as the importance of family support:

*“...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.”*

(Anne, Grandmother/Primary Caregiver)

*“It gave me the courage to tell my son.”*  
(Karina, 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.”*  
(Noelle, Sister)

Service providers in 2012 also highlighted the need for specialised training around issues of imprisonment and the effects it can have on families.

#### 2021 Policy Update

Recent research findings have shown a lack of awareness of community-based services, such as Family Resource Centres, on the part of prisoners and their families.<sup>238</sup> Researchers recommended that prison staff be trained to provide prisoners and their families with information on family services in the community and to encourage them to engage with such services, which may include Family Resource Centres as well as Meitheal (a Tusla-led process to support families in accessing support in the community) and other family supports.<sup>239</sup>

The research also found that there was low awareness among prison staff about community services and low awareness among Tusla staff about the prison experience.<sup>240</sup> As a result of these findings, resources have been developed for a training module with prison staff on the impact of parental imprisonment on children and families. This is to be delivered to all recruit prison officers and all current prison staff. Training materials for those working with children and families in the community, such as teachers, family support workers and Meitheal co-ordinators, have also been developed, along with resources for prisoners and their partners about their expectations upon release. At the time of writing, this initiative had been interrupted, with Tusla, the Childhood Development Initiative and the IPS due to re-engage on the training in late 2021.<sup>241</sup>

238 O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

239 Ibid.

240 Ibid.

241 O’Dwyer, K. (2021). *Prisoners Returning Home: Prisoners and Family Reintegration, Key Research Findings: Recommendations and Progress* [unpublished speech], 23 March 2021, IPRT/UCC Third Action for Children and Families of Prisoners Network Meeting, Zoom.

## 5.2 Sentence Management and Release

### The 2012 Research

At the time of the 2012 research, families of prisoners were rarely involved in the process of sentence planning. This was despite the proven positive benefits of family involvement in the resettlement process.<sup>242</sup> Sentence management and the post-release period were seen as a critical time by family members surveyed in 2012:

*“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.”*  
(Noeline, Mother)

*“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.”*  
(Mary, Aunt)

When asked about what could be improved for families, responses often centred on helping the individual imprisoned. The importance of a release plan was identified as vital by most family members, particularly for communities where high levels of unemployment exist. The inclusion of families in sentence planning could help minimise the lack of clarity surrounding the individual’s imprisonment and family members’ worries about their loved one’s release:

*“I don’t know where all this is going to end, and it worries me.”*  
(Marie, Parent)

### 2021 Policy Update

In 2021, there remain shortcomings in sentence planning. For example, we know that in 2019, the number of Integrated Sentence Management (ISM) Officers was only 23 for the entire prison population.<sup>243</sup> This is inadequate to provide the level of support needed for individuals preparing for release.

The non-involvement of families in sentence planning also remains an issue.<sup>244</sup> These shortcomings are despite a recommendation made in 2018 by the Joint Oireachtas Committee on Justice and Equality:

*“From the beginning of a sentence, children and families should be involved and relationships should be maintained through sentence management and after release. Visitation of family members and further involvement by family in the life of an imprisoned offender should be facilitated to maintain as normal a family life as possible. Children and families are significant motivating factors that can influence behaviour change.”<sup>245</sup>*

The Council of Europe 2018 Recommendation makes a number of recommendations relating to sentencing and release:

*“In order to enhance child-parent relationships, prison authorities shall utilise options such as home leave, open prisons, halfway houses, electronic monitoring and community-based programmes and services to the maximum possible extent, to ease transition from prison to liberty, to reduce stigma, to re-establish contact with families at the earliest possible stage and to minimise the impact of a parent’s imprisonment on children.”<sup>246</sup>*

The Recommendation also states that decisions regarding early release should take into account prisoners’ caregiving responsibilities and reintegration needs.

<sup>242</sup>Social Exclusion Unit (2002) *Reducing Re-Offending*, p.113. Available from: [https://www.prisonstudies.org/sites/default/files/resources/downloads/reducing\\_report20pdf.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/reducing_report20pdf.pdf) [accessed 21 May 2021].

<sup>243</sup>Information received by IPRT from the Irish Prison Service on 5 July 2019; Irish Penal Reform Trust. (2019). *Progress in the Penal System: A framework for penal reform (2019)*, at pp.71-72 [online]. Available from: <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf> [accessed 23 March 2021].

<sup>244</sup>O’Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

<sup>245</sup>Houses of the Oireachtas. (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p.54 [online]. Available from: [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf) [accessed 23 March 2021].

<sup>246</sup>Rec(2018)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents [online]. Available from: <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438> [accessed 19 May 2021].

## Best Practice Example

### Prisoner and Resettlement Project, Ireland

As referenced throughout this report, the Childhood Development Initiative has commissioned research on family reintegration upon a prisoner's release from prison, as part of their 'Prisoner and Resettlement' Project. The aim of this Project – which focused primarily on Castlerea Prison and Counties Roscommon and Galway – was to consolidate and scale up its work with families, capitalising on the positive relationships between Tusla, Castlerea Prison, local agencies and communities. It specifically hoped to support these bodies to establish and embed an interagency pre-release and resettlement response that was specifically focused on children and families.<sup>247</sup>

<sup>247</sup> O'Dwyer, K., Kelliher, S. and Bowes, J. (2019). *Prisoners Returning Home: Prisoners and Family Reintegration* [online]. Dublin: Childhood Development Initiative. Available from: <https://www.cdi.ie/wp-content/uploads/2019/12/CDI-Prisoners-Returning-Home-min.pdf> [accessed 19 May 2021].

## Conclusion and Recommendations

Many of the challenges facing families and children with a family member in prison, which were first identified in IPRT’s 2012 “*Picking up the Pieces*” report, remain relevant in 2021. While some positive steps have been taken by the Irish Prison Service in particular, too many of the original 2012 policy recommendations have not been implemented.

**As we approach the tenth anniversary of the 2012 report, IPRT calls for all stakeholders to finally implement these recommendations, as well as the new recommendations made in this report. Children and families with a family member in prison have been hidden for too long: the time for robust and meaningful action is now.**

To assist those responsible for implementing this report’s recommendations, we have divided the various recommendations according to the relevant stakeholder:

### GOVERNMENT

The Government is responsible for implementing the following recommendations:

- Rec 1.1:** A charter of rights for children with a family member in prison should be established, drawn up in consultation with children who have experienced parental imprisonment. This could be led by the Department of Children, Equality, Disability, Integration and Youth, or a statutory body such as the Ombudsman for Children’s Office.
- Rec 1.2:** The Government must fully incorporate the UN Convention on the Rights of the Child into Irish law, to ensure that public bodies comply with the Convention in carrying out their functions and to allow citizens rely directly upon the provisions of the Convention before Irish courts.
- Rec 1.3:** The Government, and all relevant agencies, should commit to promoting and acting in line with the Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents*.
- Rec 2.2:** A national support service that can specifically provide information and support to children and families with a family member in prison should be established and funded by the Government.
- Rec 6.1:** All government departments should recognise children with a family member in prison as a specific cohort in need of support, and at increased risk of negative outcomes, in all relevant policies, reports, briefings and papers.

## THE DEPARTMENT OF CHILDREN, EQUALITY, DISABILITY, INTEGRATION AND YOUTH

The Department of Children, Equality, Disability, Integration and Youth is responsible for implementing the following recommendations:

**Rec 2.1:** The Department of Children, Equality, Disability, Integration and Youth should:

- (a) establish an inter-departmental working group to pro-actively review existing policies, and develop new policies, which will reduce harm to, and provide support for, children and families with a family member in prison; and
- (b) conduct a mapping exercise to establish what services currently exist for children and families with a family member in prison and identify where the gaps in service provision arise.

**Rec 5.1:** The Department of Children, Equality, Disability, Integration and Youth should carry out detailed, longitudinal research on children with a parent in prison (using a similar approach to that taken in the *Growing Up in Ireland* study).

**Rec 6.1:** All government departments should recognise children with a family member in prison as a specific cohort in need of support, and at increased risk of negative outcomes, in all relevant policies, reports, briefings and papers.

## THE DEPARTMENT OF JUSTICE

The Department of Justice is responsible for implementing the following recommendations:

**Rec 3.4:** The Department of Justice should provide the Irish Prison Service with funding to deliver an Assisted Prison Visits Scheme, similar to that provided in the UK, and with the aim of assisting low-income families with the costs of prison visits.

**Rec 3.9:** The Department of Justice should ensure that any revision to the Prison Rules 2007 includes the minimum standards set out by the revised European Prison Rules 2006, the United Nations *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* ('the Bangkok Rules') and the United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Mandela Rules').

**Rec 4.3:** The Department of Justice should consider implementing a formal process whereby a child's voice can be heard in all judicial decisions that may affect the child, including where the child's primary caregiver may be sent to prison.

**Rec 6.1:** All government departments should recognise children with a family member in prison as a specific cohort in need of support, and at increased risk of negative outcomes, in all relevant policies, reports, briefings and papers.

**Rec 7.5:** The Department of Justice should expand the availability of 'home leave' and 'early release' programmes for prisoners so that a greater number of people in prison, and their families, can potentially avail of these measures.

## THE DEPARTMENT OF EDUCATION

The Department of Education is responsible for implementing the following recommendations:

- Rec 6.1:** All government departments should recognise children with a family member in prison as a specific cohort in need of support, and at increased risk of negative outcomes, in all relevant policies, reports, briefings and papers.
- Rec 6.2:** The Department of Education should:
- (a) incorporate lessons and resources about the potential impact of imprisonment on families and children into the primary and secondary school curriculums;
  - (b) develop and deliver training for all teachers on the potential impact of imprisonment on children and how to respond to these children's needs in as sensitive a manner as possible; and
  - (c) ensure anti-bullying policies proactively address the bullying of children who have a family member in prison.

## THE IRISH PRISON SERVICE

The Irish Prison Service is responsible for implementing the following recommendations:

- Rec 3.1:** The Families and Imprisonment Group should publish its policy on visiting conditions standards without delay.
- Rec 3.2:** The Irish Prison Service should establish a child-friendly visiting space in every prison in Ireland.
- Rec 3.3:** The Irish Prison Service should include, as part of the new internal prison complaints system, a standardised and user-friendly complaints procedure for all prison visitors.
- Rec 3.5:** The Irish Prison Service must eliminate the blanket policy / practice of screened visits for all prisoners in any prisons where such a policy / practice exists.
- Rec 3.6:** The Irish Prison Service must provide additional training to all prison staff that focuses on the rights of children and family visitors and emphasises the importance of carrying out search procedures in a child-friendly manner.
- Rec 3.7:** The Irish Prison Service should examine the use of sniffer dogs during security screening of visitors to Irish prisons, including the accuracy of the sniffer dogs in detecting drugs and whether any alternative security measures could be adopted.
- Rec 3.8:** The Irish Prison Service should more broadly examine its response to drug-related intimidation in prison, particularly in terms of how it affects families visiting prison, which may include liaising with the National Drug-Related Intimidation Reporting Programme (NDRIRP) run by An Garda Síochána.
- Rec 5.2:** The Irish Prison Service should:
- (a) develop a centralised database that records the number of prisoners who have children and the number of children each prisoner has; and
  - (b) produce aggregated, anonymised data from the information collected, which can be made publicly available.

**Rec 7.1:** The Irish Prison Service must implement a specific family strategy that can be used across the prison estate and which is developed in consultation with families, children and other relevant stakeholders.

**Rec 7.2:** As part of this strategy, and in order to promote and facilitate the maximum level of family contact with a relative in prison, the Irish Prison Service must:

- (a) extend in-cell telephone provision across the entire prison estate;
- (b) retain and invest in video phone calls as an additional form of strengthening family contact beyond the Covid-19 pandemic; and
- (c) improve the timeliness of prisoner correspondence by avoiding unnecessary delays in the processing of post.

**Rec 7.3:** The Irish Prison Service should roll out the *Family Links* programme across all prisons in Ireland and establish Family Liaison Officers in all prisons with specific responsibility for ensuring families receive information and support as required.

**Rec 7.4:** Tusla and the Irish Prison Service should develop a joint protocol that is aimed at supporting parents in prison whose children are in care.

**THE OFFICE OF THE INSPECTOR OF PRISONS**

The Office of the Inspector of Prisons is responsible for implementing the following recommendation:

**Rec 3.10:** The Office of the Inspector of Prisons and the Ombudsman for Children’s Office should consider carrying out a joint review of prison visiting facilities and family contact from a children’s rights perspective, to ensure that visits are child-friendly and that children’s rights are upheld during the prison visiting process.

**THE OMBUDSMAN FOR CHILDREN’S OFFICE**

The Ombudsman for Children is responsible for implementing the following recommendation:

**Rec 3.10:** The Office of the Inspector of Prisons and the Ombudsman for Children’s Office should consider carrying out a joint review of prison visiting facilities from a children’s rights perspective, to ensure that they are child-friendly and that children’s rights are upheld during the prison visiting process.

**TUSLA**

Tusla is responsible for implementing the following recommendation:

**Rec 7.4:** Tusla and the Irish Prison Service should develop a joint protocol that is aimed at supporting parents in prison whose children are in care.

### THE SENTENCING GUIDELINES AND INFORMATION COMMITTEE

The Sentencing Guidelines and Information Committee is responsible for implementing the following recommendation:

**Rec 4.1:** The Sentencing Guidelines and Information Committee should include in proposed sentencing guidelines:

- (a) the overarching principle of imprisonment as a last resort;
- (b) a presumption in favour of community sentence where a primary caregiver is being sentenced; and
- (c) a requirement that the ‘best interests’ of the child, and the impact of imprisonment on the child, is considered in circumstances where the primary caregiver may be imprisoned.

### THE JUDICIAL STUDIES COMMITTEE

The Judicial Studies Committee is responsible for implementing the following recommendation:

**Rec 4.2:** The Judicial Studies Committee should provide training to all judges on the impact of imprisonment of a primary caregiver on children.

### AN GARDA SÍOCHÁNA

An Garda Síochána are responsible for implementing the following recommendation:

**Rec 6.3:** An Garda Síochána should provide specific training to existing staff and new recruits on the rights of the family and the rights of children who are related to a suspect or offender.

### MEDIA

The media are responsible for implementing the following recommendation:

**Rec 6.4:** All members of the media should adhere to the ethical principles developed by the Press Council of Ireland and the Council of Europe *Recommendation CM/Rec (2018) 5 of the Committee of Ministers to member States concerning children with imprisoned parents*.





## Appendix 1: Approach to the 2012 Research

On embarking upon the 2012 research, IPRT considered that a qualitative approach was essential to voice the concerns of those most deeply affected. The report was also informed by consultations with prisoners, families, and community organisations as part of IPRT’s ‘Know Your Rights’ campaign,<sup>248</sup> as well as consultations with those working in the criminal justice system.

Semi-structured interviews and focus groups were undertaken with children and families affected by imprisonment. Family support services and other relevant organisations were used as points of referral to access potential participants. From this process, 26 people with a family member in prison were interviewed. Of these, six were children ranging from the ages of eight to 16. Information on the ethical guidelines followed are set out below.

It should be noted that access to consultation with children on the relevant issues was limited. Some family members consulted for the project had not told their children about their parent’s imprisonment or did not want the issue to be brought up for fear of upsetting the child. There were other gaps in the 2012 study, for example, the researchers did not speak with the relatives of any foreign nationals in Irish prisons nor did they speak with any women in prison.

### Ethics

When dealing with a subject matter of such a sensitive nature, it was important to comply with ethical principles of research. IPRT consulted with the Ombudsman for Children’s Office and examined the then Department of Children and Youth Affairs publication on ethical standards for research involving children.<sup>249</sup> IPRT also consulted with various expert academics and researchers from non-governmental organisations before undertaking the research.

More broadly, IPRT researchers examined various ethical guidelines drawn up by University College Dublin in its Code of Ethics, as well as the British

Society for Criminology Code of Ethics, before starting the research with family members. The four ethical principles this study adhered to were as follows: informed consent; anonymity; voluntary participation; and minimising the risk of harm to participants.

### Principle 1: Informed Consent

The process of informed consent involved describing the nature and rationale of the research to potential participants clearly. The researcher explained orally and in written format the purpose of the research.

### Principle 2: Anonymity

All the data provided by the participants was anonymised, which meant that no information received could be linked to that individual. For example, participants’ gender and family status was changed in the quotes used in order to protect the anonymity of all individuals who participated in the study. The real names of participants were not included in the report (nor have they been included in the 2021 updated version of the report).

### Principle 3: Voluntary Participation

All potential participants were informed that their participation was completely voluntary. All children were told that whether they participated was entirely their own choice and they were told that they could choose to opt out at any stage if they no longer wanted to take part.

### Principle 4: Minimising Harm

To minimise harm, the interviews were carried out within an organisation that supported children and families, and who would be present after the interview in case of any professional support required. For those interviewees not accessed through support services, a list of family support services was made available to the family members.

For further detailed information on the research carried out in 2012, please see the original 2012 *“Picking Up the Pieces”: The Rights and Needs of Children and Families Affected by Imprisonment* report.<sup>250</sup>

248 IPRT’s ‘Know Your Rights’ booklet was launched in four prisons in May and June of 2012. It was updated in 2020. Irish Penal Reform Trust. (2021). *Know Your Rights – Your Rights as a Prisoner* [online]. Available from: [https://www.iprt.ie/site/assets/files/6868/iprt\\_knowyourrights2020\\_spreads.pdf](https://www.iprt.ie/site/assets/files/6868/iprt_knowyourrights2020_spreads.pdf) [accessed 23 March 2021].

249 Department of Children and Youth Affairs. (2012). *Guidance for Developing Ethical research projects involving children* [online]. Available from: [https://www.drugsandalcohol.ie/17405/1/DOC\\_Ethics\\_Guidance.pdf](https://www.drugsandalcohol.ie/17405/1/DOC_Ethics_Guidance.pdf) [accessed 23 March 2021].

250 Irish Penal Reform Trust. (2012). *“Picking up the Pieces”: The Rights and Needs of Children and Families Affected by Imprisonment* [online]. Available from: [https://www.iprt.ie/site/assets/files/6320/iprt\\_children\\_of\\_imprisoned\\_parents2.pdf](https://www.iprt.ie/site/assets/files/6320/iprt_children_of_imprisoned_parents2.pdf) [accessed 14 April 2021].



Ireland's leading non-governmental organisation campaigning for human rights and best practice in the penal system, and for progressive penal policy.

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