

**Maintaining Familial Bonds When a Parent Is Incarcerated:  
The Law, Policy, Research, and Practice of Parent-Child Visitation in a Carceral Setting  
November 12, 2020**

**8:00 am – 1:00 pm CST**

**VIA ZOOM**

**Sponsored by Stinson, LLP, Missouri Appleseed, and The Joseph H. and Florence A. Roblee Foundation**

- I. Welcome – **Liza Weiss**, Executive Director, Missouri Appleseed (10 minutes) 8:00 am – 8:10 am
- II. Personal Experience – **Stephanie Regagnon**, Founder of Ava’s Grace and Executive Director of Innovation Partnerships at Danforth Plant Science Center (20 minutes) 8:10 am – 8:30 am
- III. The Constitutional and Statutory Law Related to Parent-Child Visitation When a Parent Is Incarcerated – **Andrew Scavotto**, Partner, Stinson, LLP (45 minutes) 8:30 am – 9:15 am
- IV. View From The Bench – **The Honorable Diane M. Monahan**, Family Court Commissioner, St. Louis County Circuit Court (45 minutes) 9:15 am – 10:00 am
- V. Break – (15 minutes) 10:00 am – 10:15 am
- VI. Risk and Resilience in the Lives of Families Impacted by Parental Incarceration – **Dr. Joyce Arditti**, Professor of Human Development and Family Science at Virginia Tech University, Author of *Parental Incarceration and The Family: Psychological and Social Effects of Incarceration on Children, Parents, and Caregivers* (45 minutes) 10:15 am – 11:00 am
- VII. Maintaining Familial Bonds When a Parent Is Incarcerated – **Mr. Jeffrey A. Grimes, M.A., L.P.C.**, Restorative Justice Coordinator, Family Court of St. Louis County (45 minutes) 11:00 am – 11:45 am
- VIII. Strengthening Families Using a Race Equity Lens – **Dr. Jessica Pryce**, Executive Director, Florida Institute for Child Welfare at the Florida State University (75 minutes) 11:45 am – 1:00 pm

# Analysis of Visitation Rights for Incarcerated Parents



PRESENTED BY  
ANDREW J. SCAVOTTO

# Parental Rights are Fundamental and Include Visitation

- The Supreme Court has protected the integrity of the family unit under the Due Process Clause, Equal Protection Clause, and Ninth Amendment
  - *Stanley v. Illinois*, 405 U.S. 645, 651 (1972); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942)

# Fundamental Rights

- “Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation’s history and tradition. It is through the family that we inculcate and pass down many of our most cherished values, morals and culture.”
  - *Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, 504-505 (1977).

# What are Fundamental Parental Rights?

- Fundamental parental rights include rights to the companionship, custody, and management of children
  - *Stanley v. Illinois*, 405 U.S. 645, 651 (1972);
  - In most jurisdictions, including Missouri, fundamental parental rights include a right to visitation
  - Courts describe the right of visitation as a "natural right" that is "sometimes regarded as sacred" and is "always respected as exceedingly important."
    - *M.L.B. v. W.R.B.*, 457 S.W.2d 465, 466 (Mo. Ct. App. 1970)

# Parental Rights Survive Incarceration

- According to the Supreme Court, fundamental rights survive incarceration if they are "not inconsistent" with a prisoner's status or the legitimate objectives of the corrections system
- “There is no iron curtain drawn between the Constitution and the prisons of this country”
- Subject to prison-safety and child-welfare concerns.
  - *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); M.L.B., 457 S.W.2d at 466 (the "natural rights" of a parent-child relationship are not suspended during incarceration).
  - Parental rights survive even if inmates are not considered “model parents,” or if they lost temporary custody of their child

## ***M.L.B. v. W.R.B.*, 457 S.W.2d 465, 466 (Mo. Ct. App. 1970).**

- Missouri Court of Appeals noted that a father's imprisonment resulted in him losing his civil rights during his incarceration
- However, the court distinguished civil rights from *natural* rights, which “appertain originally and essentially to man—such as are inherent in his nature, and which he enjoys as a man, independent of any particular act on his side
- M.L.B. court declared visitation right as “sacred,” even in the context of incarceration. *Id*

# Visitation Rights Under State Law

- Most state statutes create a presumption favoring reasonable visitation rights to a non-custodial parent
- In Missouri, the applicable legislation creates a presumption that visitation with both parents is in the child's best interest.
  - Mo. Rev. Stat. § 452.400



# Mo. Rev. Stat. § 452.400

- Courts must PRESUME that children benefit from maintaining "frequent, continuing and meaningful contact with both parents" and from having both parents "participate in decisions affecting the health, education and welfare of their children."
- The non-custodial parent "is entitled to reasonable visitation unless the court finds, after a hearing, that visitation would endanger the child's physical or mental health." Mo. Rev. Stat. § 452.400.1
- However, this presumption is not absolute and statutory grants of visitation rights are typically conditioned on the best interests of the child. See *M.L.B.*, 457 S.W.2d at 466 (noting that the parental right of access is not absolute and may be denied if access is detrimental to the child's welfare).

# Substantial Justifications are Necessary to Deny Parental Rights

- Visitation rights are protected under constitutional principles and statutory presumptions
- Missouri Court of Appeals requires “extraordinary and exceptional circumstances” and a showing of “clear and convincing evidence” to restrict the parental right of access.

# Circumstances Supporting a Denial of Parental Rights

- Circumstances supporting a denial of parental rights often are expressly identified in statutory provisions.
- Missouri statute prohibits courts from granting visitation rights to a parent who has committed certain offenses against the child, including sexual or physical abuse.
  - Mo. Ann. Stat. § 452.400.1(2) (listing numerous statutory crimes that lead to the prohibition of visitation rights).
- Otherwise – best interests of child

# “Best interests” of a child

- **Missouri:** non-custodial parent has a right to reasonable visitation, “unless the court finds ... that visitation would endanger the child's physical health or impair his emotional development.”
  - Mo. Rev. Stat. § 452.400.1
- Not limited to considering only physical abuse
- Court “shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child.

# Denial of Visitation Rights

- If requested, Court must make specific findings that the visitation “would endanger the child's physical health or impair his emotional development.”
  - Mo. Rev. Stat. § 452.400.1.
  - Significant deference is given to the trial court's assessment,
    - advocacy and the presentation of evidence in the lower courts is critical

# Nature and Status of Relationship is Key

- Continuing visitation rights to an incarcerated father was in the best interests of the children, who had visited the father regularly and established a strong parent-child relationship
  - *M.L.B.*, 457 S.W.2d at 465-66 (Mo. Ct. App. 1970).
- Visitation rights denied because the father had not seen his nine-year-old son since the child was two years old
  - *Vaughan*, 672 S.W.2d 187, 188 (Mo. App. 1984).

# Overall Well-Being

## Vaughn v. Merritt

- Nine-year-old child was well-adjusted and happy;
- Had not seen his father since he was two-years old;  
and
- Evidence showed that it would be upsetting for him to learn of his father's twenty-year incarceration for sexual offenses

# How Does Visitation Influence Parental Rights?

- By itself, a parent's incarceration is insufficient to justify termination of parental rights.
- Frequency of parent-child visitation during parent's incarceration may impact subsequent termination of parental rights.
  - Missouri courts have held that an inmate's infrequent contact with their child can support complete termination of parental rights.
    - *In re R.D.M.*, 576 S.W.3d 318 (Mo.App. E.D. 2019).



# How Does Visitation Influence Parental Rights?

- Inmate's desire for child visitation may not be enough to maintain parental rights.
  - *See In re J.P.B.*, 509 S.W.3d 84, 88 (Mo. 2017), reh'g denied (Feb. 28, 2017) (terminating parental rights despite inmate's application for child visitation, which was denied, and his continued desire to maintain a relationship with his child).
- Grounds for termination may also include abandonment, unfitness, and failure to maintain a parent-child relationship.
  - *See, e.g.*, Mo. Rev. Stat. § 211.447.

# Vaughan Case – Proper Procedure?

## Section 452.400.1

- Non-custodial parent "is entitled to reasonable visitation unless the court finds, after a hearing, that visitation would endanger the child's physical or mental health."

## Vaughn Court

- “Vaughan ignores the fact that he has placed himself in a position where he cannot visit his son except in prison. Rather than the court denying visitation, Vaughan has denied himself visitation through his acts which resulted in his incarceration. In that situation, the court was not required to make the statutory finding that is called for when a court denies visitation”

# Advocacy Considerations re: *Vaughan*

- Results-driven opinion focused on the best interests of the child, premised on the appellate court's understanding that it would be extremely upsetting for the son to visit his father in prison
- Incorrect application Section 452.400
  - Presumption in favor of visitation must be overcome with a specific factual findings that visitation would impair the child's physical health or emotional development.
- “denied himself visitation”

# Adoption and Safe Families Act of 1997

- federal law purporting to promote the adoption of children in foster care, citing health and safety as paramount and encouraging *permanent* living arrangements for children in foster care as soon as possible. 42 U.S.C. § 671
- RSMo 211.447.2(1) tracks the language of the ASFA
- If a child has been in foster care for 15 of the most recent 22 months, child services is required to file a petition to terminate parental rights.
  - RSMo 211.447.2

# Adoption and Safe Families Act of 1997

- Disproportionate impact on incarcerated parents
- From 2006 to 2018, nearly 5000 incarcerated parents have had their parental rights terminated expressly because of their imprisonment.
  - *Eli Hager & Anna Flagg, How Incarcerated Parents Are Losing Their Children Forever*, MARSHALL PROJECT (Dec. 2, 2018), <https://perma.cc/GF4C-CPW9>.

## Missouri *In re M.D.R.*, 124 S.W.3d 469, 476 (Mo. banc 2004)

- Time-limitation not enough *by itself* to result in termination of parental rights
- Courts must find *some other* basis showing termination is in the child's best interests.
- Missouri courts should not be "hyper-technical" in applying the ASFA because "[t]he Due Process Clause would be offended if a State were to attempt the breakup of a natural family, over the objections of the parents ... without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interests."

# Exceptions under Mo. Rev. Stat. § 211.447

- 1) the family is making progress toward reunification but the child cannot yet return home;
- 2) the child is over age 13 and does not want his parent's parental rights terminated;
- 3) the child's behavior is such that termination would not be in the child's best interest; and
- 4) the child is placed with relatives.

# Conclusions | Advocacy Discussion

- Parent visitation rights are fundamental and survive incarceration
- The mere fact of incarceration, or general concerns about the prison environment, should be insufficient bases to support the denial or restriction of visitation rights
- Visitation rights must be balanced with the “best interests” of the child.
- BUT, denial or restriction requires “extraordinary and exceptional circumstances” and a showing of “clear and convincing evidence” to restrict the parental right of access.



# Conclusions | Advocacy Discussion

- A party objecting to visitation rights bears the burden of proof and must establish a denial or restriction with “clear and convincing” evidence.
- Remember the presumption; remember these rights are fundamental
- protection of parental visitation rights is rooted in the sanctity of family and importance of the parent-child relationship.
  - the law reflects a policy that maintaining contact with a parent *is*—presumptively—in the child’s best interest.

# Conclusions | Advocacy Discussion

- Supreme Court precedent and Constitutional principles of fundamental rights are the bedrock for Missouri's presumption favoring visitation.
- Social-scientific research and data
- Visitation rights are important to the child's best interest, absent extraordinary circumstances proven detrimental to the child's physical or emotional well-being.

Any Questions?

# Thank You

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# Risk and Resilience in the Lives of Families Impacted by Parental Incarceration

Missouri Appleseed  
Joyce A. Arditti, Ph.D.  
Virginia Tech  
November 12, 2020

# Overview

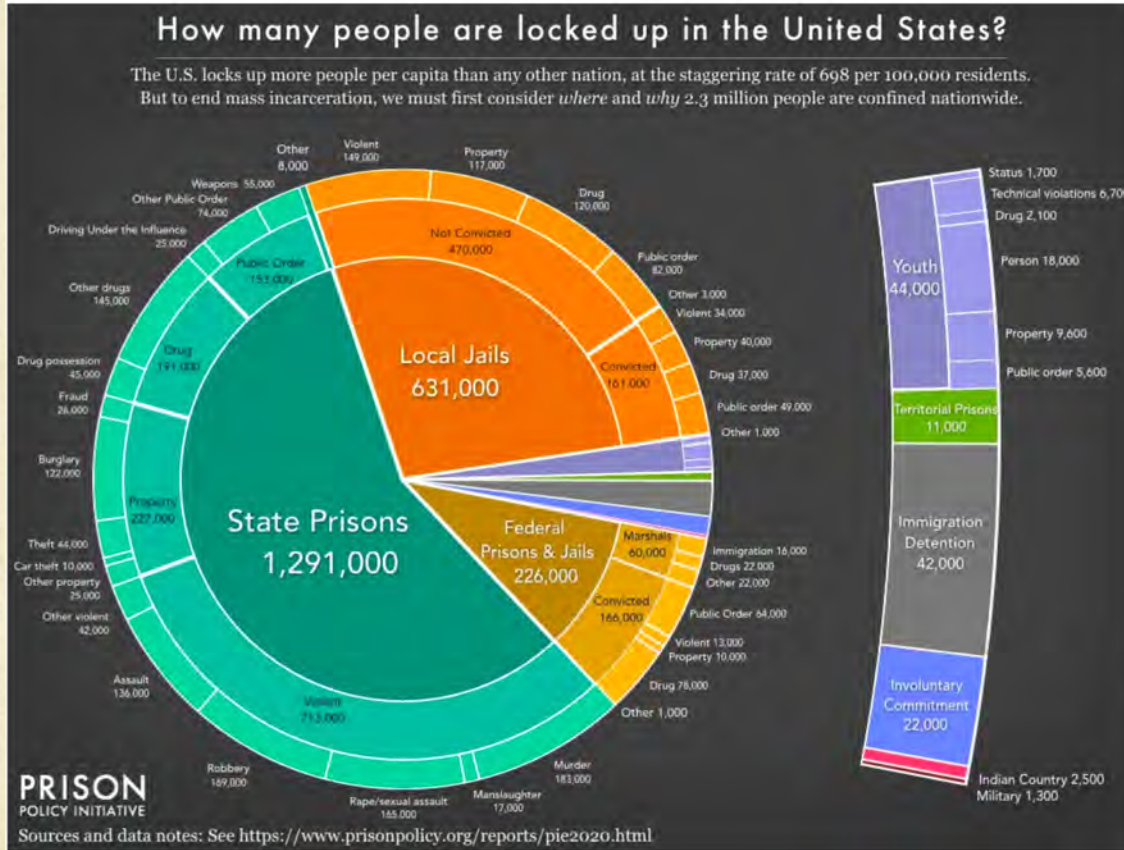
Context & Scope

**Adversity**

**Resilience**

Practice & Policy

# The Context of Mass Incarceration in the US



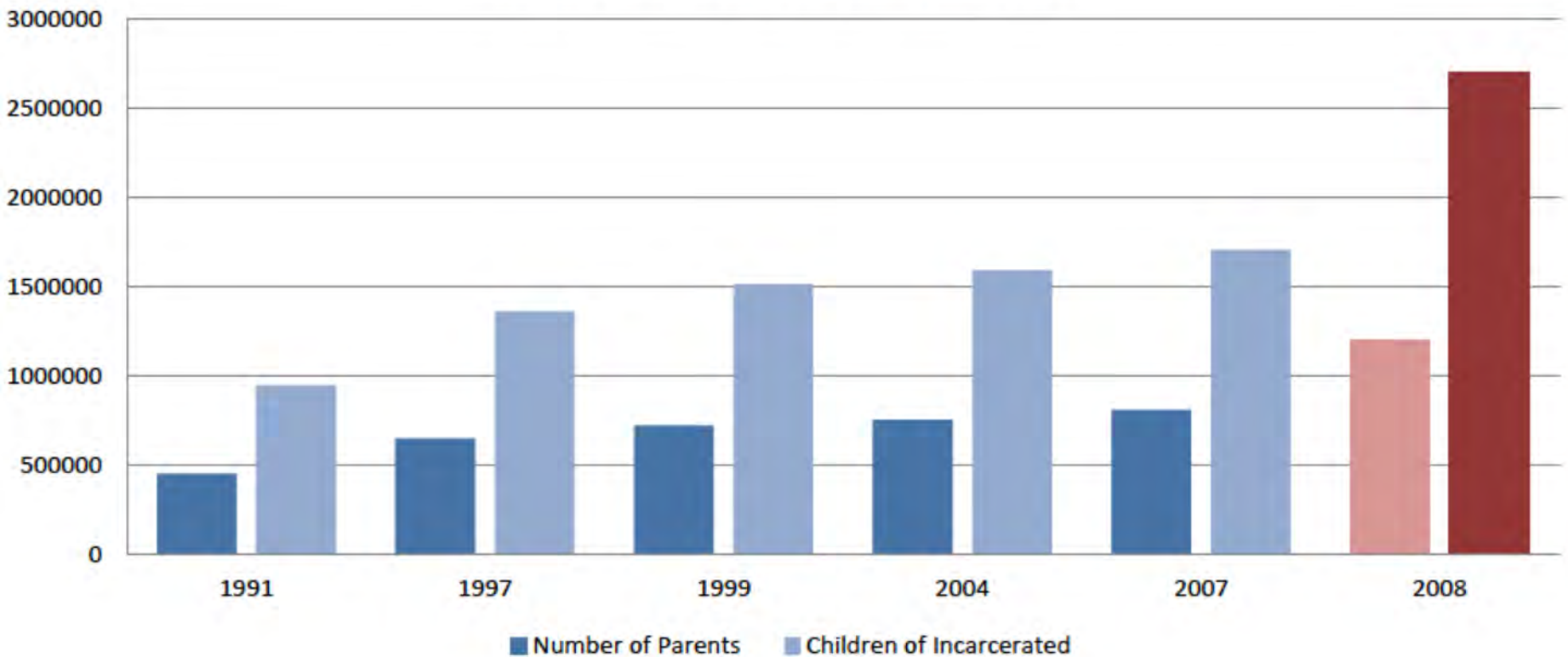
# Reentry Facts

- More than 700,000 persons released from confinement in 2010
  - 95% of incarcerated persons complete sentence and “return home.”
  - A large % of reentrants are parents
- Multiple barriers to reintegration
- “Invisible Punishments” limit access to resources and opportunities
- 4 in 10 previously incarcerated persons returned to state prison within 3 years of release.

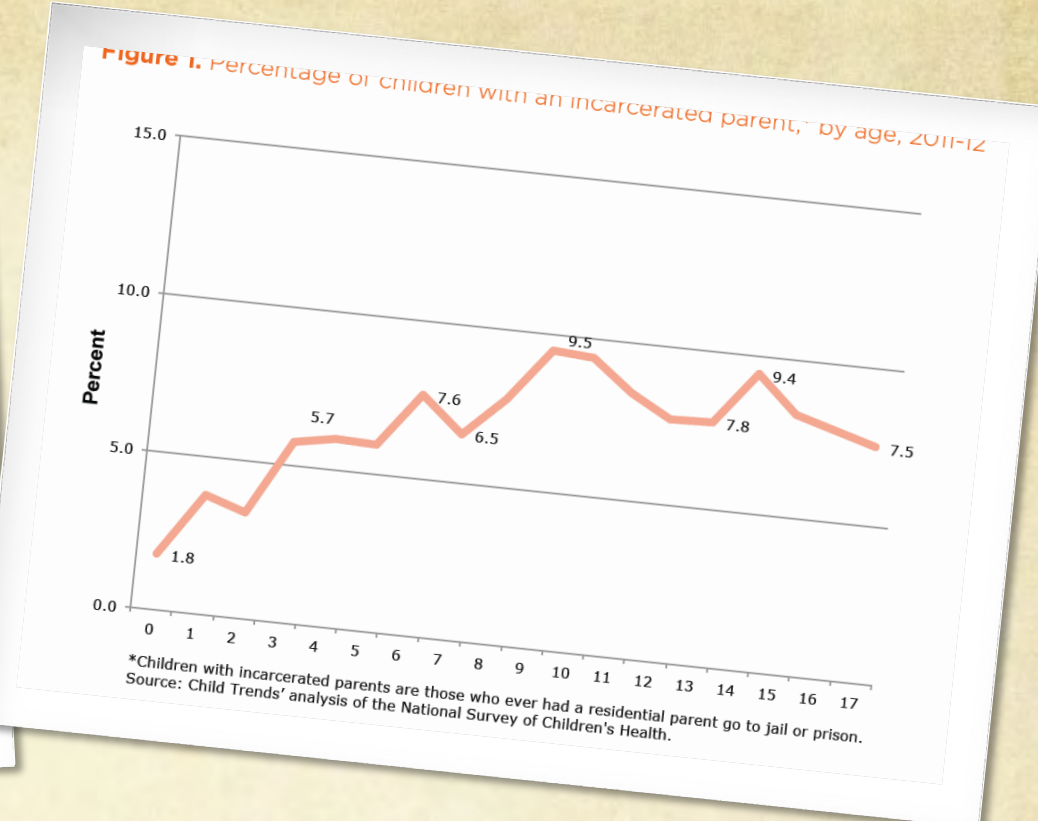
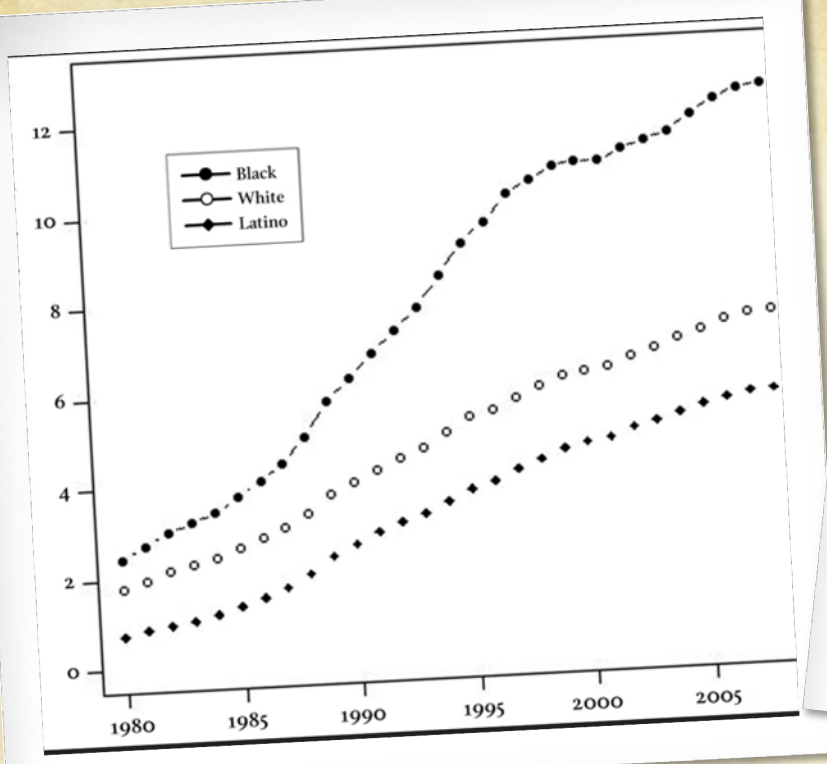


- Including jails, estimates indicate that as many as 2.7 million children have a parent behind bars.

### Estimated number of parents in state and federal prison and jail and their minor children



Source: Pew Charitable Trusts. *Collateral Costs: Incarceration's Effect on Economic Mobility*. 2010.



# Racial Disparity and Children

Black children are far more likely to experience a parent's incarceration

# Parental Incarceration as a “Risk” to Children

- A burgeoning literature has documented parental incarceration as a unique risk to children’s development and contributor to family stress
- In general **risk factors** are those features or characteristic that contribute to vulnerability, or maladaptive psychopathological outcomes
  - Risks often co-occur: e.g. mental illness and drug use, and these characteristics are together overrepresented among incarcerated populations presenting a cumulative risk for maladjustment and reentry difficulties.

# Resilience: Prevailing Over Adversity



- The term “**resilience**” refers to “patterns of positive adaptation in the context of significant risk or adversity” (Masten & Powell, 2003 p. 4)
- Resilience represents **two judgments** about children and their families.
  - 1. The first judgment is that **significant adversity exists**
  - 2. The second is that children and their families are **doing well in spite of it.**
- A **family perspective on parental incarceration** extends these judgments from the individual to the family and suggests that even under extreme hardship and duress, adaptive processes and positive family outcomes are possible.

# The Two Judgements: What do We Know?

- We know a lot about **adversity**.....
- *We know less about the ways in which children are doing well, and why.....*

Adversity

# Child Effects of Parental Incarceration

- Examples of these effects include:
  - children's antisocial behavior (Murray, Farrington, & Sekol, 2012);
  - psychological and behavioral difficulties (Dallaire, Zeman, & Thrash, 2015; Midgely & Lo, 2013; Wakefield & Wildeman, 2014),
  - traumatic symptomology and loss (Arditti & Salva, 2013)
  - health vulnerabilities (Lee, Fang, & Luo, 2013; Mitchell, McLanahan, Schneper, Garfinkel, Brooks-Gunn, & Notterman, 2017; Turney, 2014).

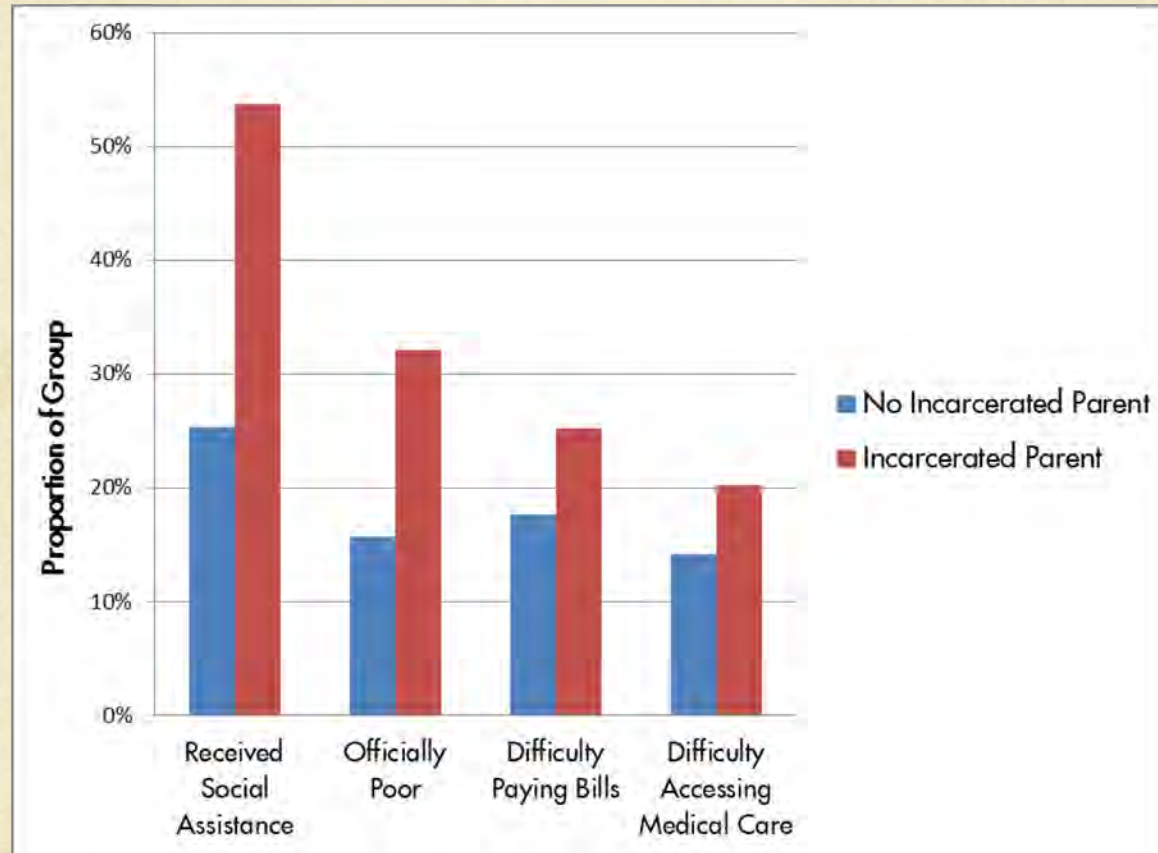


# Material Hardship

- Most prisoners in the US come from histories of disadvantage characterized by:
  - low education, unemployment, neighborhood and early family life disadvantage, mental health challenges and substance abuse, and intergenerational criminality (Phillips, Erkanli, Keeler, Costello, & Angold, 2006; Uggen, Wakefield, & Western, 2005).
- **These disadvantages extend to the children of the incarcerated who are at risk of experiencing homelessness and food insecurity (Wakefield & Wildeman, 2014), housing instability (Cox & Wallace, 2013), and other forms of disadvantage such as low educational achievement (Foster & Hagan, 2009; Haskins, 2014).**
- **Parental Incarceration intensifies material hardship**
  - Lost child support or financial contribution
  - Incarceration costly to prisoner's family



# Youth Experience Material Hardship: Add Health Data



# Family Instability and Adverse Childhood Experiences (ACEs)

- Parental incarceration a difficult and risky form of family instability
  - High prevalence of residential instability/homelessness
  - Guardianship changes/Foster care-particularly in cases of maternal incarceration
- Imprisonment uniquely contributes to divorce/relationship dissolution
- Children with a parent in prison also exposed to more ACE's (adverse childhood experiences) and traumatic **incarceration-related risks** such as parental arrest
  - ACE's compromise development

# Lynn's Story

- Lynn was reincarcerated at the time of our interview. She had 3 children ages 7,5,2. Her story highlight a history of disadvantage triggered by her mothers' incarceration.
- “When I was 13, my mother too was incarcerated. I was without the one who was my life, my role model . . . I didn't know how to deal with that so I turned to what would numb the feelings I was having—alcohol . . . When my mother left, I was a child going towards life with the best intentions to succeed. When she got home, I was headed for destruction.”

Resilience

# Evidence of Youth Competence

- Qualitative studies examining coping of youth with a parent in prison suggest competence via:
  - Creative and resourceful coping strategies (Berman et al., 2012; Nesmith & Ruhland, 2008).
  - Most children “doing ok” or excelling at school displayed positive outlook and engaged in prosocial activities (Nesmith & Ruhland, 2008; Sands et al., 2009);
  - Deidentification (distancing) and “strength through control” (Johnson & Easterling, 2014)

# Adaptive Family Processes

These include:

- Caregiver and Family stability
- Caregiving Quality
- Positive family contact experiences, particularly visiting



Chronicle / Deanne

# Caregiving Contexts

- Caregiving arrangements determined by whether it is a mother or father in prison:

## Current Caregivers of Minor Children of Parents in State Prisons, 2004

	Fathers		Mothers	
	%	Number	%	Number
Child's other parent	89	517,317	37	18,907
Grandparent	13	73,150	45	22,944
Other relative	5	27,504	23	11,651
Foster home/agency	2	12,874	11	5,570
Other	2	14,045	8	3,986

NOTE: Percentages sum to more than 100% because some parents have children living with multiple caregivers.

# The Importance of Caregivers

- **Caregiver and Family stability**
  - Some studies show “no change” or “positive changes” in caregivers’ lives since maternal incarceration
  - Women’s repartnering within context of paternal incarceration can lead to greater stability
  - More likely when incarcerated parent involved in care decision, children with other biological parent, and co-caregiving positive
- **Caregiving Quality**
  - Although parental incarceration linked to “caregiver risks” and less optimal parenting practices ...some studies find evidence of increased parental engagement and positive caregiver interactions
  - Children’s care arrangement might improve after incarceration
    - Children report “peaceful caring home atmosphere”
    - Close kin ties important



# Resilient Parenting: Keeping kids close....

- Caregivers employ a range of strategies to monitor children and “keep them close.”
- Suzanne: “We just moved, so we’re sorta in the transition of her (daughter) making new buddies... Right now, I’m going to the old neighborhood and picking them up and bringing ‘em to my house... Cause uh, that’s another single parent household that I think has way bigger challenges than me... “
- Tonya: “I keep her (daughter) so close...they (kids) have a four house radius, you can’t go past the fourth house. And my house is on the corner, eh, so you can’t go past the end of the block... But, um... I just don’t... you just don’t know what other parents are [doing]... I have... friends or associates who live in other areas that’s not like [her neighborhood]. Their kids, they tell me some of the things that their kids do, so... I don’t... I’m just like, you know what? That’s alright. Y’all could just stay home.

# Visiting & Contact

- Considerable variation exists re: the nature, extent, and impact of children's contact with the incarcerated parent
  - Type of facility parent is confined determines visit policies (e.g. jails vs. prisons)
  - More frequent visits when facility closer to home; shorter sentences
- Visits seem to benefit incarcerated parents
- Visits can benefit children and their families
  - Create normative family experiences (e.g. sharing meals; playing games)
  - Children may feel excited and relieved to see parent
    - *But visits may also arouse worry and concern*
  - Regular visits may connect with school completion
- Positive **family contact experiences**
  - Visits with an **intervention component** more likely to be associated with benefits for children such as increased self-esteem, or attachment
  - Letter writing (noninvasive); technology enhanced visits
    - May be helpful if in person visits not feasible

# Karen: Writing instead of Visiting...

- Prison visits can be hard on children and parents.
- Karen, a recent reentrant and mother of four, recounted that the visits from her oldest daughter, now 11, were emotionally upsetting and that her girl would cry at the end of the visit because she could not leave to return home with them. She said: “I understand why she didn’t come. The visit changed her mood. So the visit upset me, upset my daughter. . . I would write (instead).”

# Factors to Consider: Visiting

- Developmental status
  - Children's preferences (particularly important for older children)
- History of Trauma
  - History of maltreatment involving incarcerated parent
- Visiting logistics and environment
  - Are there programs/interventions in place?
  - Distance, cost of visits
- Children's previous relationship with incarcerated parent
- Caregiver relationship with incarcerated parent
  - Family violence between caregiver and incarcerated parent
- Special circumstances (e.g. foster care)
- Availability of less invasive types of contact
  - Televisiting, phone, letters



# Implications for Practice and Policy

# Pyramid of Principles



# Promoting Human Development

- **Moving beyond the “deficit”**: Resilience is more than a lack of problem behavior
  - Resilience built into families, schools, and communities
  - Families’ experiences connected to incarceration occur in a **nested system** with many potential sources of intervention.
    - Multimodal interventions promising (e.g. Prison Inside Out; PIO Eddy et al. 2008)
- **Strengths based interventions** emphasize the importance of not blaming families and the use of nonthreatening therapeutic approaches.
- **Timing** of interventions is important: Intervention opportunities for families at the time of “crisis” (i.e. arrest, sentencing, reentry) or developmental transitions (i.e. adolescence) may be warranted.
  - For example, reentry programs must extend support to family members
  - Typically family members request services that help the reentrant rather than services for themselves (Nasar & Visher, 2006).

# Parenting/Family Interventions

Formal and informal efforts to **empower caregivers and foster resilience** represent the most proximal form of intervention; many caregivers are unprepared to raise the incarcerated parents' children, or parenting may already be troubled in the home.

- Nonstigmatizing community and school-based support (e.g. child care & educational programs; employment opportunities, respite, & social support for caregivers)
- Not all families will need the same type of support
- Include families in reentry planning

○ **Substance abuse and mental health treatment:** critical not just for incarcerated parents but for family members. Often these are shared and intergenerational phenomena that pose tremendous barriers for jobs as well as healthy family life





# Developmental Considerations

- Interventions must consider “where children are at”
- Aim to facilitate *age-appropriate competencies* (e.g. secure attachment in preschoolers; prosocial peer relationships in adolescence)
- Mentoring programs could help promote coping and school-based competence



# Visiting/Institutional Interventions

- Less restrictive, “family friendly” visiting programs foster resilience, and should be thoughtfully implemented.
- On site, therapeutic support would be useful for many families.
- Collaborations between correctional staff with child welfare/human services practitioners are important.
- Justice-involved families are overrepresented in the child welfare system.

# Conclusion: Intervention in Context

- Mass Incarceration Policy: “The Elephant in the Room”
  - Expansion concurrent with downsizing of public aid/penalization of poverty
  - Lessen incarceration, increase community-based alternatives
    - Primary Caretaker Legislation
- Social justice efforts oppose structural constraints, disenfranchisement, and discrimination
- **Antipoverty investments** critical in the most hard hit communities
  - Initiatives that buffer material hardship
  - Youth with access to material resources demonstrate more resilience

# Resources

- Arditti, J. A. (2012). *Parental incarceration and the family: Psychological and social effects of imprisonment on children, parents, and caregivers*. NYU Press.
- Arditti, J.A. & Johnson, E. (forthcoming). A family resilience agenda for understanding and responding to parental incarceration. *American Psychologist*.
- Eddy, J. M., Martinez, C. R., Schiffman, T., Newton, R., Olin, L., Leve, L., Foney, D. M., & Shortt, J. W. (2008). Development of a multisystemic parent management training intervention for incarcerated parents, their children and families. *Clinical Psychologist*, 12(3), 86–98. <https://doi.org/10.1080/13284200802495461>
- Poehlmann, J., Dallaire, D., Loper, A. B., & Shear, L. D. (2010). Children's contact with their incarcerated parents: Research findings and recommendations. *American Psychologist*, 65(6), 575-598. <https://doi.org/10.1037/a0020279>



# MAINTAINING FAMILIAL BONDS WHEN A PARENT IS INCARCERATED

JEFFREY A. GRIMES, M.A., L.P.C.

# CHILDREN OF INCARCERATED PARENTS FACT SHEET

(THE ANNIE E. CASEY FOUNDATION)

## **Incarceration of adults (Page 1)**

- More than one in every 100 adults in America are in jail or prison.<sup>1</sup>
- On any given day, over 1.5 million children in this country--approximately 2% of the minor children—have a parent serving a sentence in a state or federal prison.<sup>2</sup>
- There is a disparate impact on families of color, with African-American children nine times more likely and Hispanic children three times more likely than white children to have a parent in prison.<sup>3</sup>

# CHILDREN OF INCARCERATED PARENTS FACT SHEET

(THE ANNIE E. CASEY FOUNDATION)

## **Incarceration of adults (Page 2)**

- Between 1995 and 2005, the number of incarcerated women in the U.S. increased by 57% compared to 34 percent for men (Harrison & Beck, 2006).<sup>4</sup>
- 75 percent of incarcerated women are mothers.<sup>5</sup>
- Sixty-three percent of federal prisoners and 55 percent of state prisoners are parents of children under age 18.<sup>6</sup>

# CHILDREN OF INCARCERATED PARENTS FACT SHEET

(THE ANNIE E. CASEY FOUNDATION)

## **Incarceration of adults (Page 3)**

- Forty-six percent of all imprisoned parents lived with at least one of their minor children, prior to entry.<sup>7</sup>
- The average age of children with an incarcerated parent is eight years old; 22 percent of the children are under the age of five.<sup>8</sup>



# CHILDREN OF INCARCERATED PARENTS FACT SHEET

(THE ANNIE E. CASEY FOUNDATION)

## How does this affect children and families left behind? (Page 1)

- Despite widespread statements that children with incarcerated parents are many times more likely than other children to be incarcerated as adults, there is no reliable research evidence to support this assertion.<sup>9</sup>
- Parental incarceration creates additional challenges for children and families often resulting in:
  - Financial instability and material hardship, with financial problems the most severe for already vulnerable families and caregivers who support contact between the incarcerated parent and his or her child.<sup>10</sup>
  - Instability in family relationships and structure, and residential mobility.<sup>11</sup>
  - School behavior and performance problems.<sup>12</sup>
  - Shame, social and institutional stigma.<sup>13</sup>

# CHILDREN OF INCARCERATED PARENTS FACT SHEET

(THE ANNIE E. CASEY FOUNDATION)

## How does this affect children and families left behind? (Page 2)

- In addition to lowering the likelihood of recidivism among incarcerated parents, there is evidence that maintaining contact with one's incarcerated parent improves a child's emotional response to the incarceration and supports parent-child attachment.<sup>14</sup>
- Many programs and services for children whose parents are incarcerated offer promise in meeting some aspect of children's needs, but have not been empirically validated as having either short- or long-term impacts on children's well-being.<sup>15</sup>

# END NOTES

<sup>1</sup> The Pew Charitable Trusts (2008). One in 100: Behind Bars in America 2008. Washington, DC. Available online at <http://www.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf>

<sup>2</sup> Mumola, C. J. (2000). Incarcerated parents and their children. Washington, DC: U.S. Department of Justice. Accessed 04/17/08 at <http://www.ojp.usdoj.gov/bjs/pub/pdf/iptc.pdf>.

<sup>3</sup> Ibid.

<sup>4</sup> Harrison, P. M. & Beck, A. J. (2006). Prisoners in 2005. U.S. Department of Justice, Bureau of Justice Statistics. Washington, DC. Available online at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p05.pdf>.

<sup>5</sup> Mumola, C. J. (2000).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid

<sup>9</sup> Ibid.

# END NOTES

<sup>10</sup> Garfinkel, I., Geller, A., & Cooper, C. (2007). Parental Incarceration in Fragile Families: Summary of Three Year Findings. A report to the Annie E. Casey Foundation (unpublished); Hairston, C. Finney. (2007).

<sup>11</sup> Ibid.

<sup>12</sup> Hairston, C. F. (2007); Hanlon, T. E., Blatchley, R. J., Bennett-Sears, T., O'Grady, K. E., Rose, M., & Callaman, J. M. (2005). Vulnerability of children of incarcerated addict mothers: Implications for preventive intervention. *Children and Youth Services Review*, 27, 67– 84.

<sup>13</sup> Hairston, C. F. (2007).

<sup>14</sup> La Vigne, N.G., Naser, R.L. Brooks, L.E. & Castro, J.L. (2005). Examining the effect of incarceration and in-prison family contact on prisoners' family relationships. *Journal of Contemporary Criminal Justice*, 21(4).

<sup>15</sup> Hairston, C. F. (2007).

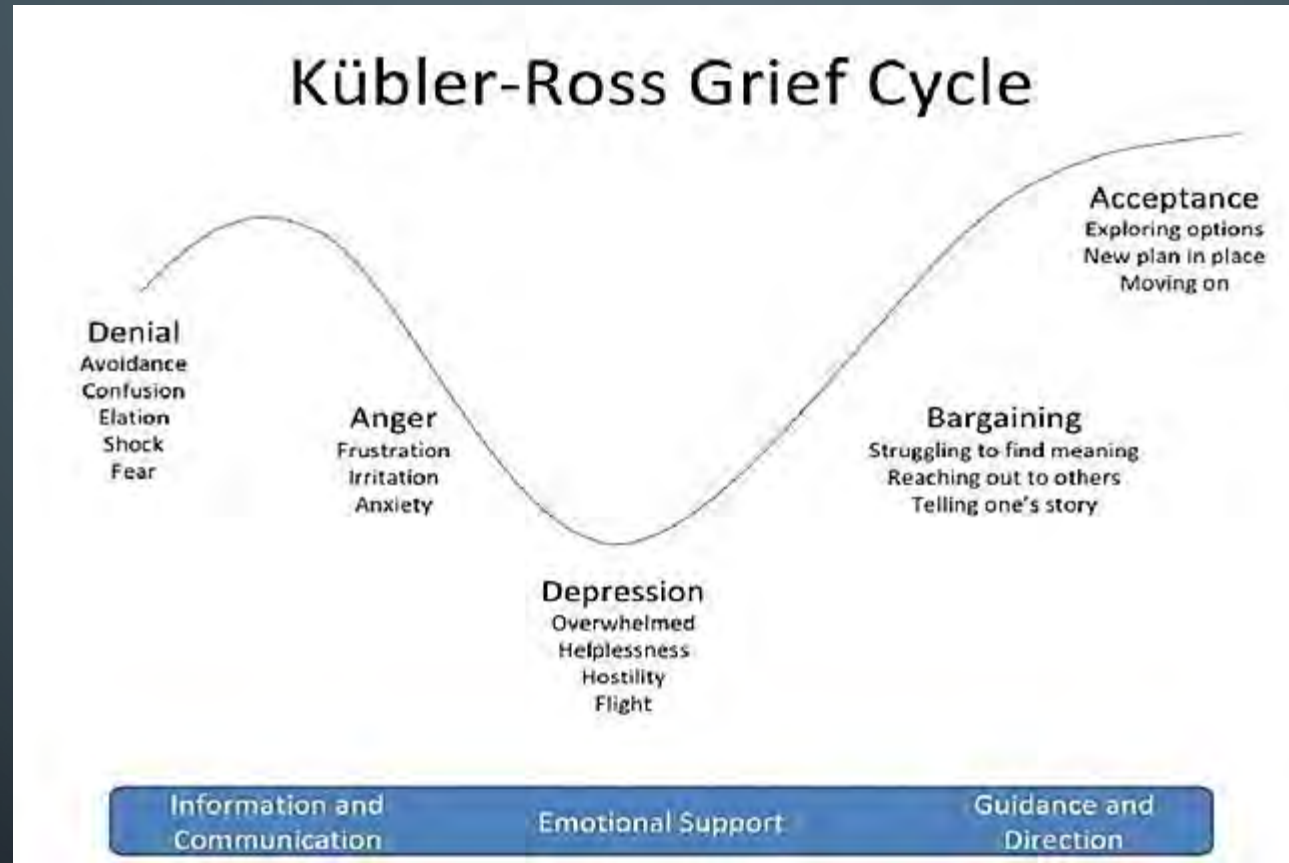
Herkov, M. (2016). About family therapy. Psych Central. Retrieved from <https://psychcentral.com/lib/about-family-therapy/>

# A FAMILY THERAPIST'S PERSPECTIVE

- **Family** can be defined as a [group](#) of people who are in some way related to one another. It is the most basic and ancient of all institutions, and it remains the fundamental social unit in every society. The purpose of families is to maintain the well-being of its members and of society. Ideally, families would offer predictability, structure, and safety as members mature and participate in the community.<sup>[1]</sup> In most societies, it is within families that children acquire [socialization](#) for life outside the family, and acts as the primary source of attachment, nurturing, and socialization for humans.<sup>[2][3]</sup> The members of the family form an economic unit—often for producing goods and services and always for consuming goods and services. Additionally, as the basic unit for meeting the basic needs of its members, it provides a sense of boundaries for performing tasks in a safe environment, ideally builds a person into a functional adult, transmits culture, and ensures continuity of humankind with precedents of knowledge.
- *Donald Collins; Cathleen Jordan; Heather Coleman (2010). [An Introduction to Family Social Work](#). Brooks/Cole, Cengage Learning. pp. 28–29. ISBN 978-0-495-80872-5.*
- <sup>▲</sup> Alhussain, Khalid, Shah, Drishti, Thornton, James, Kelly, Kimberly. Familial Opioid Misuse and Family Cohesion: Impact on Family Communication and Well-being. *ADDICT DISORD THEIR TREAT*. 2019;18(4):194-204. doi:10.1097/ADT.000000000000165.
- <sup>▲</sup> Lander L, Howsare J, Byrne M. The impact of substance use disorders on families and children: from theory to practice. *Soc Work Public Health*. 2013;28:194-205.

# A FAMILY THERAPIST'S PERSPECTIVE

- **Family Therapy**
- Family therapy or family counseling is a form of treatment that is designed to address specific issues affecting the health and functioning of a family. It can be used to help a family through a difficult period, a major transition, or mental or behavioral health problems in family members (“Family Therapy”, 2014).
- As Dr. Michael Herkov (2016) explains, family therapy views individuals’ problems in the context of the larger unit: the family. The assumption of this type of therapy is that problems cannot be successfully addressed or solved without understanding the dynamics of the group.
  1. Ackerman, C.E. (2014) What is Family Therapy?
  2. Herkov, M. (2016) “About Family Therapy.” *Psych Central*



## **Presentation Description**

**Jessica Pryce, Ph.D., MSW**

This presentation will center on the racial inequity within our child welfare system. The speaker will cover the historical context associated with child welfare and the formulation of the double standards of parenting in our country. National data will be included as well as local data (as available). Additionally, there will be concepts of racial justice explored and compelling reasons for each participant to play an active role in equity and justice. The speaker will offer strategies for partnering with families and tools on how to enhance parental capacity. Dr. Pryce will describe strategies that agencies can implement to impact racial disparity and disproportionality in child welfare. She will also discuss the necessity of courageous leadership which makes way for anti-racist and anti-oppressive policies and procedures. She will also include the role of community partners (the judiciary, educators, law enforcement, GAL, mental health providers) in the anti-racist work of child and family wellbeing.

## **Deconstruction of Power**

Three power constructs/positions:

Hierarchical and imbalance

Negotiated and reciprocal

Shared and balanced

(Phillips & Pon, 2007; Kikilwe, 2016; Bundy-Fazioli, Briar-Lawson & Hardiman, 2008)

### **Privilege/Subjugation – (Dr. Kenneth Hardy)**

“Shame is a major stumbling block for the privileged. Rage is a major stumbling block for the subjugated.”

- Tasks of the Privileged:
  - Resist false notion of equality. It is not helpful to equate suffering.
  - Intentions vs consequences: it is not helpful to continue to clarify intentions if consequences were harmful.
  - Challenge the Ahistorical approach to our work. History matters.
  - Perseverance: Don't give up on building relationships with people who are subjugated, even if initially rebuffed.
- Tasks of the Subjugated:
  - Overcome learned voicelessness, they must advocate for themselves, Reject notion that “silence is golden”
  - To overcome the addiction to protect the privileged
  - To deal with one's own rage, channel it appropriately.