

EVERY DOOR CLOSED: FACTS ABOUT PARENTS WITH CRIMINAL RECORDS



Every Door Closed Fact Sheet Series ■ No. 1 of 8

MANY CHILDREN HAVE EX-OFFENDER PARENTS

- About 1.5 million children have parents who are currently incarcerated.
- More than 10 million children in the United States have parents who were imprisoned at some point in their children's lives.
- Each year, approximately 400,000 mothers and fathers finish serving prison or jail sentences and return home eager to rebuild their families and their lives.
- Most ex-offender parents lived with or had regular contact with their children before going to prison. However, prison severely strains parent-child relationships and many families are torn apart. When these parents are released, they will face multiple barriers to reunifying with their families, reintegrating into their communities, and obtaining stable employment and housing.
- Most people involved in the criminal justice system are non-violent offenders.

INCREASING NUMBERS OF PARENTS—ESPECIALLY MOTHERS—HAVE BEEN INCARCERATED

- Sixty-five percent of women in state prison are mothers, and nearly two-thirds of these mothers lived with their children before they were arrested and incarcerated. Most mothers in prison reported that, during incarceration, their children were living with a grandparent or other relative, and that they were likely to reunite with their children once released.

- Fifty-five percent of men in state prison are fathers, and nearly half of these fathers lived with their children before incarceration.
- Women prisoners account for 6.7 percent of all inmates and are the fastest growing subgroup of the prison population. In addition, 22 percent of adults on probation and 12 percent of adults on parole are women.
- About one-quarter of inmates have open child support cases. Incarcerated non-custodial parents owe in the range of \$225 to \$313 per month in child support. On average, parents owe more than \$10,000 in arrears when they go to prison and leave prison owing \$23,000 or more. More than half of these arrears are owed to the state to repay welfare costs.

AFRICAN AMERICAN AND HISPANIC FAMILIES ARE DISPROPORTIONATELY AFFECTED

- In the late 1990s, about 3 million African-American men were in some form of correctional supervision (mostly incarceration), while millions more were ex-offenders.
- Twelve percent of African-American men, 4 percent of Hispanic men and 1.6 percent of white men in their twenties and early thirties are in prison or jail.

EX-OFFENDER PARENTS NEED ASSISTANCE TO REBUILD THEIR LIVES

- Fewer than one-third of men and only half of women in state prison have finished high school.

- In one study of ex-offenders, 94 percent wanted help with getting food or clothes, 89 percent wanted help with employment, 87 percent wanted help with child support, and 50 percent wanted help with housing. Virtually all ex-offender parents wanted help with their relationships with the other parent of their children, as well as help with budgeting and money management.
- Employers are less willing to hire ex-offenders than almost any other category of job applicants. In a recent survey, over 60 percent of employers said they probably would not hire an applicant with a criminal record. Another study found that having a crimi-

nal record led to a 50 percent reduction in employment opportunities for white applicants and a 64 percent reduction for African-American applicants.

This fact sheet is adapted from "Introduction" by Amy E. Hirsch in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

BARRED FROM JOBS: EX-OFFENDERS THWARTED IN ATTEMPTS TO EARN A LIVING



Every Door Closed Fact Sheet Series ■ No. 2 of 8

THE PROBLEM

- Parents with criminal records need jobs to support their families and to re-enter mainstream society. However ex-offenders' criminal records typically create an employment barrier for the rest of their lives, even for jobs that are unrelated to their past criminal activity.
- Employment is key to rehabilitation. Jobs help ex-offenders turn away from a life of crime or underground employment.
- Many parents with criminal records, particularly those with recent periods of incarceration, lack a high school diploma, have no significant recent work history, and lack other skills and credentials necessary to compete successfully for jobs.
- Unless they can find work, parents re-entering the community after incarceration will not be able to find housing or reunite with their children.
- Parents with criminal records are often unaware of their legal rights if denied employment due to a criminal record.

THE SOLUTION: ALLOW PARENTS WITH CRIMINAL RECORDS TO WORK

The following proposals would improve employment possibilities for ex-offenders, without undermining legitimate employer and societal concerns about security risks that ex-offenders might present.

Federal Action:

- Improve and publicize the federal bonding and tax credit programs to assist employers who hire individuals with criminal records.

Case Studies

Rocky, who is blind, worked successfully with people with disabilities for over a decade. However, he was barred from this job when a new state law was passed because of a marijuana conviction from over 30 years ago.

* * *

When Pennsylvania implemented a law excluding most categories of ex-offenders from working in facilities for care-dependent persons, Resources for Human Development (RHD), a private, non-profit social service agency, determined that 25 dedicated and trusted employees had to be removed from their jobs. The law also contributed to a labor shortage for these human services jobs, causing RHD to close a successful program in a Veterans Administration hospital.

- Increase funding for employment programs for ex-offender parents, and maintain or increase flexibility in the Temporary Assistance for Needy Families (TANF) welfare block grant so that funds can be used to address employment barriers and provide education and vocational training.
- Monitor racial discrimination based on criminal records through the Equal Employment Opportunity Commission.

Federal, State, or Local Action:

- Repeal and avoid legislation creating overbroad, blanket employment prohibitions on ex-offenders that tie the hands of employers.
- Publicize and enforce existing laws limiting employer consideration of criminal records.
- Enact new laws providing that:
 - criminal records should only be considered to the extent relevant to the job for which an ex-offender has applied; and
 - employers must consider the seriousness of the offense, the length of time that has passed, and the extent of the person's rehabilitation when making a hiring decision.
- Provide rehabilitated ex-offenders with opportunities to expunge offenses, seal records, obtain certificates of rehabilitation, or receive pardons.
- Government at all levels should commit increased resources to employment services, including job readiness, education, and skills training, before and after release from prison or jail, and to subsidized employment ("transitional jobs") after release.

This fact sheet is based on "Criminal Records and Employment: Ex-Offenders Thwarted in Attempts to Earn a Living for Their Families" by Sharon M. Dietrich in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

Criminal Records as Barriers to Employment: Unequal Treatment from State to State

Legal prohibitions against employment in certain occupations vary greatly from state to state:

- Some states have lifetime bans on certain types of employment; others may restrict employment for a limited number of years.
- The same conviction may result in being prohibited from an occupation in one state, require proof of rehabilitation in another state, and have no legal effect on employability in a third state.

Even if there is no law prohibiting employment, employers often refuse to hire or retain people with criminal records—or people whom they even *suspect* might have criminal records.

- Some employers deny jobs based on arrest records, even if the charges were dropped.
- Because many employers conduct routine criminal background checks, ex-offenders have great difficulty finding work, even many years after completing their sentences.

BARRED FROM JOBS: EX-OFFENDERS THWARTED IN ATTEMPTS TO EARN A LIVING

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ONE STRIKE AND YOU'RE OUT: LOW-INCOME FAMILIES BARRED FROM HOUSING BECAUSE OF CRIMINAL RECORDS



Every Door Closed Fact Sheet Series ■ No. 3 of 8

THE PROBLEM

- As a result of the federal Department of Housing and Urban Development's "one strike and you're out" policy, families may be unable to rent a federally subsidized apartment if any member of the family has a criminal record. Moreover, entire families already living in subsidized housing may face eviction for the criminal behavior of any household member or guest, often without consideration of mitigating circumstances.
- Safe, decent, and affordable housing is critical to the well-being of parents and children. Parents returning to the community after incarceration will be unable to regain custody of their children if they cannot find appropriate housing.
- Lack of stable and affordable housing makes it very difficult for parents to find work and for children to concentrate in school. Access to housing can be a

The One-Strike Policy

Families may be evicted for:

- the criminal behavior of a household member or guest,
- which occurs on or off the premises,
- regardless of whether or not there has been an arrest or conviction,
- without satisfying the standard of proof used for a criminal conviction,
- even if all of the criminal charges against the alleged offender are ultimately dismissed.

Case Studies

Shirley and her 14-year-old daughter lost their housing because she reported her 16-year-old son's drug use to the police—in a desperate effort to get help for him.

* * *

Frank was denied admission to senior citizen housing because of a 40-year-old shoplifting conviction.

key factor for ex-offender parents to make positive changes and rebuild their lives. The goals of rehabilitation and family reunification cannot be accomplished if families do not have stable housing.

THE SOLUTION

The following proposals would protect the well-being of other tenants, neighbors, and landlords without the current harsh, automatic denials of housing to families who need help.

Federal Action:

- Congress or the federal Department of Housing and Urban Development should amend the "one-strike-and-you're-out" policy to require Public Housing Authorities to evaluate evictions and admissions on a case-by-case basis, to look at rehabilitation and mitigating circumstances, and to weigh fully the consequences of a loss of subsidized housing for the family.
- Congress should change the U.S. Housing Act to include the tenant's knowledge, fault, or ability to

foresee the problem as elements that a housing authority must establish before proceeding with an eviction. Families should not be evicted for the unforeseeable criminal activity of one household member or guest.

- Congress should provide funding to substantially increase the stock of affordable housing so that parents re-entering the community after incarceration can access subsidized housing.

State or Local Action:

- Under the current federal rules, states and localities can and should encourage their Public Housing Authorities to make case-by-case decisions, consider rehabilitation and mitigating factors, and consider the impact of loss of subsidized housing on the family.

- Use the “best interests of the child” standard. For families with children, Public Housing Authorities should look to the “best interests of the children” when determining whether to grant admission to an ex-offender or to evict families based on criminal activity.

This fact sheet is based on “Criminal Records and Subsidized Housing: Families Losing the Opportunity for Decent Shelter” by Rue Landau in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

“I NEED TO GET EDUCATED”: LIFT THE BAN ON FINANCIAL AID FOR HIGHER EDUCATION



Every Door Closed Fact Sheet Series ■ No. 4 of 8

THE PROBLEM

- Under the 1998 reauthorization of the Higher Education Act of 1965, students who have prior convictions for possession or sale of controlled substances cannot obtain Pell grants or student loans. In 2001, more than 43,000 college students faced possible denials of federal student aid as a result of the ban.
- Although the ban was intended to apply solely to students already receiving federal aid when convicted, the federal Department of Education has applied the ban more broadly to students with convictions from before they went to college.
- Without Pell grants or student loans, low-income students with prior drug convictions who are trying to straighten out their lives cannot go to college.
- Low-income mothers have been particularly hard hit by the loan ban for students convicted of drug offenses. Between 1990 and 1996, the number of women convicted of felonies in state courts grew at over twice the rate of increase for men, largely as a result of the war on drugs.
- Even applicants not technically subject to the bar may be discouraged from applying for financial aid as a result of misinformation, bad advice, or wrong assumptions about how the law works.
- Although there is an exception to the ban for individuals who complete certain drug treatment programs, individuals may be unable to take advantage of this provision because of the shortage of treatment programs, especially for women with children. In addition, low-income individuals often lack the funds to pay for drug treatment, or they may not be

Case Study

“I had a good job, and they closed down with no notice. I need to get educated and qualified. I want some backbone, some papers that say I completed something and I’m capable. I want to get a college degree.”

—A mother with a drug conviction

eligible for drug treatment because they have already managed to get clean on their own.

- The American Council of Education calls the ban “double punishment,” which has a disparate impact on low-income people compared to more affluent students who do not need financial aid.

HIGHER EDUCATION IS IMPORTANT TO EX-OFFENDER PARENTS AND THEIR FAMILIES

Access to higher education for ex-offender parents is critical for their success, their children’s futures, and for society as a whole:

- **Education increases employment opportunities.** Most parents in state and federal prison (70 percent and 55 percent, respectively) lack even a high school diploma. Education increases the employment and earnings potential of low-income parents.
- **Education reduces recidivism.** Numerous studies have shown that prison education programs reduce re-arrest and re-imprisonment rates. In addition, prison education programs can assist in management of prisons by providing stability and structure by

reducing the need for supervision. Unfortunately, many jurisdictions cut prison education programs in the 1990s, making access to education for ex-offenders even more important.

- **Education helps parents set positive examples for their children.** Parents with drug convictions who pursue higher education not only create better lives for themselves, but they model positive values and behavior for their children.

THE SOLUTION

- Repeal the ban on student financial aid. If we want ex-offender parents to reintegrate fully into their communities, to find sustainable employment, and to care for and encourage the education of their children, then it is counter-productive to block their efforts to further their own educations. Congress should repeal or clarify the ban, or the Department of Education should revise its overly strict interpretation.
- Colleges and universities should provide outreach and assistance to ensure that parents with criminal records are not discouraged from applying for aid and attending school.

Terms of Bans on Financial Aid for Drug Convictions

Possession Convictions	Ineligibility Period
First offense	One year
Second offense	Two years
Third offense	Indefinite/permanent
Sale Convictions	Ineligibility Period
First offense	Two years
Second offense	Indefinite/permanent

This fact sheet is based on “Student Loans and Criminal Records: Parents with Past Drug Convictions Lose Access to Higher Education” by Irv Ackelsberg and Amy E. Hirsch in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

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A CRITICAL BRIDGE TO SUCCESS: MAKING PUBLIC BENEFITS ACCESSIBLE TO PARENTS WITH CRIMINAL RECORDS



Every Door Closed Fact Sheet Series ■ No. 5 of 8

THE PROBLEM

- Federal and state law and policy often prevent parents with criminal records from accessing needed public benefits.
- Parents who are denied Temporary Assistance for Needy Families (TANF) or Food Stamps also lose access to a wide range of employment-related services.
- Parents who are re-entering the community after incarceration often need public benefits in order to reunify their families, pay rent, and buy food, clothing, and other necessities.
- Some parents with criminal records need assistance because they have disabilities that prevent them from working. Others can work but need assistance until they can find a job.
- Welfare benefits are a lifeline for women trying to escape domestic violence. Many women have criminal records as a result of drug use, which they began as children when they were being physically or sexually abused.
- Losing public benefits can create a vicious cycle, making it harder for parents with criminal records to stay clean and sober, avoid abusive relationships, take care of their children, and resist engaging in criminal activity.

BARRIERS TO ACCESSING PUBLIC BENEFITS

- The 1996 federal welfare reform law imposed a lifetime ban on TANF and Food Stamp benefits for people with felony drug convictions for conduct after August 22, 1996—regardless of their circum-

Case Study

Upon release from prison, a mother with drug convictions could only find a part-time job at a grocery store and was living in a rented room. Her two young children lived with their grandmother, since the mother could not afford to raise them. Her story:

“I collapsed at work, and was taken to the hospital. After I was in the hospital I learned that I could get welfare benefits and subsidized housing, which made it possible for me to survive and get my children back. Having my children back kept me strong and kept me from relapsing. Now I own a home and I have a steady job. I’m active in the PTA....My husband and I are raising five children. Our kids are all doing well in school....Being able to get welfare when I needed it made it possible for me to change my life.

If the same thing had happened to me now, instead of 10 years ago, I wouldn’t be able to get those benefits. I don’t know where I would be today if I hadn’t gotten welfare when I needed it.”

stances or subsequent efforts at rehabilitation—unless their state affirmatively passes legislation to opt out of the ban. Although 31 states have modified or eliminated the ban, it remains in effect in much of the country.

- Parents with certain kinds of ongoing problems with the criminal justice system (outstanding felony bench warrants or in violation of probation or parole) are ineligible for Food Stamps, Supplemental Security Income (SSI), or TANF until those problems are resolved.
- Caseworker confusion and stringent “verification” requirements result in parents wrongly being denied benefits because of their criminal records.
- Parents with criminal records may have particular difficulty complying with TANF and Food Stamp work requirements. Court-ordered probation or parole requirements may directly conflict with welfare department rules concerning work, child support, or verification.

THE SOLUTION

- Allow individuals with criminal records (other than for public assistance fraud) to receive public benefits if they are otherwise eligible. Many members of the law enforcement community see lifting the lifetime ban as an anti-crime measure.

- Allow pre-employment activities, including alcohol and drug treatment and mental health treatment, to count as work activities under TANF.
- Develop programs to process public benefits *rapidly* for eligible individuals who are leaving prisons or jails, so that they can more appropriately re-enter the community and lessen their chances of a revolving-door return to jail.
- Create targeted welfare-to-work programs that address the needs of parents with criminal records, recognizing that they must meet often conflicting requirements of the welfare, child welfare, and probation systems.

This fact sheet is adapted from “Parents with Criminal Records and Public Benefits: ‘Welfare Helps Us Stay in Touch with Society’” by Amy E. Hirsch in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

DRIVEN UNDERGROUND: EX-OFFENDERS STRUGGLE WITH CHILD SUPPORT OBLIGATIONS



Every Door Closed Fact Sheet Series ■ No. 6 of 8

THE PROBLEM

- Unrealistically high child support orders discourage ex-offenders from finding a regular job, pushing them to find employment in the underground economy and undermining their reintegration into society.
- In many states, most child support debt is owed to the government, not to families. When ex-offenders pay child support, the support is often kept by the state to reimburse public assistance costs (including foster care and Medicaid birth-related costs) and does not benefit their children. When child support is kept by the state and not passed through to their children, parents are less motivated to pay support and more likely to enter the underground economy to avoid enforcement.
- When parents go to prison, their child support orders are not automatically suspended or reduced in most states. In some states, incarceration is considered “voluntary unemployment,” which does not justify reduction. Debt mounts, often building to thousands of dollars in arrears that low-wage ex-offenders will never be able to pay off.
- When ex-offenders can re-establish ties with their children, they are more likely to successfully reintegrate into society. However, overwhelming child support debt can create an additional barrier to family reunification.

THE SOLUTION: SET REALISTIC OBLIGATIONS AND PAY THE SUPPORT DIRECTLY TO FAMILIES

The following proposals would result in more realistic child support obligations and would make steady employment, regular child support payments, improved

Case Study

A 23-year-old father of three children has been released from prison with child support debt piling up. He wants to get a regular job, but a former associate approaches him about getting back into drug-dealing. He wants to do the right thing—but feels too much financial pressure to resist.*

parent-child relationships, and family reunification more likely for ex-offenders:

Federal Action:

- Pass legislation to allow states to pass through all child support to families.
- Prohibit states from adding Medicaid birth-related costs to support orders.
- Increase funding for multi-service programs and child support services for ex-offenders.
- Develop model policies for the management of state arrears.
- Develop model practices for setting child support orders.

State or Local Action:

- Set realistic support orders, and encourage regular payments to help both parents support their children.
- Pass through all support payments to families.

- Create more parent-friendly child support establishment processes, including telephone hearings for incarcerated parents.
- Implement easy procedures for correcting and modifying child support orders.
- Automatically suspend child support obligations or set orders at zero during incarceration. Provide information and services to parents and their families during prison intake and upon release.
- Implement arrears management policies, and suspend or waive state-owed arrears when parents resume living with their children.
- Strengthen the coordination between state child support, corrections, and employment and training systems, and fund child support services in programs that work with incarcerated and released parents.

This fact sheet was prepared by Vicki Turetsky, as part of a series adapted from *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

Why are many child support orders too high?

Incarceration may prevent parents from participating in the legal processes establishing legal paternity and support obligations.

State guidelines often fail to reserve income to pay for the subsistence needs of non-resident parents.

State guidelines often fail to account adequately for multiple families and orders.

Orders set in default hearings are often based on “imputed income”—assumed income from full-time, year-around jobs.

Support orders often include “add-ons”—interest, fees, genetic test costs, and birth-related Medicaid charges.

Support orders often include “retroactive support” debt going back to the child’s birth.

* Pate, D. (2002). “An Ethnographic Inquiry into the Life Experiences of African American Fathers with Children on W-2.” In D. Meyer & M. Cancian (Eds.), *W-2 Child Support Demonstration Evaluation, Report on Nonexperimental Analyses, Fathers of Children in W-2 Families, Vol. II*. Madison, WI: Institute for Research on Poverty, p. 61.

KEEPING FAMILIES CONNECTED: HELPING INCARCERATED PARENTS STAY INVOLVED WITH THEIR CHILDREN



Every Door Closed Fact Sheet Series ■ No. 7 of 8

THE PROBLEM

- Any parent who goes to prison, even for a short time, faces the grave risk of losing his or her children forever. Many parents will leave jail having served their time but facing a far worse sentence: loss of all rights as parents and all contact with their children.
- Conviction of a crime does not mean that a parent cannot continue a loving, committed relationship with his or her child. As one court has noted, “While ‘use a gun, go to prison’ may well be an appropriate legal maxim, ‘go to prison, lose your child’ is not.”*
- In many states, parental rights are terminated based on parents’ convictions for crimes not directly related to their ability to care for their children, without a case-by-case consideration of individual circumstances.
- A large percentage of incarcerated parents (especially incarcerated mothers) live with their children before going to prison. Over 85 percent of incarcerated mothers plan to reunite with their children after their release. Yet they may lose all parental rights either while they are incarcerated or shortly after release, despite their best efforts to maintain contact with their children.
- Dissolution of a family affects children as well as parents. Many children in foster care, especially older children, value their relationships with their parents and want the relationships to be sustained wherever possible.
- Courts and child welfare agencies often require parents to attend drug treatment programs or parenting skills classes. However, both often have long waiting lists or are completely unavailable to prisoners.

Case Study

Five-year-old Michael returned home to his parents after a year and a half in foster care. Initially, the child welfare agency suggested that Michael might never be returned because his father, William, had an unrelated, nonviolent conviction that predated Michael’s birth. William was not alleged to have been responsible for Michael’s injuries and was recognized for his devotion to his son and for his wholehearted cooperation with the child welfare agency. Although this family was ultimately reunited, the unnecessarily prolonged separation and risk of permanent separation was very hard on Michael and both of his parents.

THE SOLUTION: STRENGTHENING FAMILIES

The desire of parents to reunite with their children is often the key motivation for helping them turn their lives around. Laws and policies must change to allow incarcerated parents to maintain ties to their children, so that their children will not forever lose the opportunity to have loving relationships with their parents.

State or Local Action:

- States and local child welfare agencies should actively encourage kinship care placements when appropriate. Placement with relatives is one important way to preserve children’s ties with incarcerated parents.
- States should encourage continued involvement by incarcerated parents by:

- ❑ ensuring that child welfare authorities remain in touch with incarcerated parents and that parents have the opportunity to participate in child welfare court proceedings and case service planning for their children and have court-appointed counsel in child welfare cases;
- ❑ requiring that child welfare agencies accept collect calls from incarcerated parents and, in appropriate instances, arrange for pre-paid calls from parents to children in foster care;
- ❑ factoring in the ability to maintain parent-child contact when making prison placements;
- ❑ facilitating visitation between children and incarcerated parents, including helping parents telephone and write letters and send audiotapes to their children and providing toys, games, and children's books in prison visiting rooms;
- ❑ implementing in-prison programs to foster continued contact between parents and children; and
- ❑ offering appropriate reunification services to incarcerated parents, including parenting and life skills programs, individual and group therapy, family therapy in conjunction with visits, drug and alcohol treatment, and literacy, GED, and other educational and vocational programs.

- States should avoid overly broad termination statutes:
 - ❑ Parental rights should not be terminated as the result of convictions for crimes not directly related to the parents' ability to care for their children.
 - ❑ Ensure an opportunity for case-by-case consideration of individual circumstances.
- Courts must apply the time frames and exceptions in the Adoption and Safe Families Act flexibly where parental rights termination does not serve the best interests of the child.

This fact sheet is adapted from "Criminal Convictions, Incarceration, and Child Welfare: Ex-Offenders Lose Their Children" by Peter D. Schneider in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

* In re Brittany S., 17 Cal. App. 4th 1399, 1402 (Cal. Ct. App. 1993), rev. den. 1993 Cal. LEXIS 6444 (1993).

DIVIDED FAMILIES: IMMIGRATION CONSEQUENCES OF CONTACT WITH THE CRIMINAL JUSTICE SYSTEM



Every Door Closed Fact Sheet Series ■ No. 8 of 8

THE PROBLEM

- The intersection of immigration law and criminal law leaves many citizen children facing the loss of their parents through deportation.
- An increasing list of more than 50 different crimes can now trigger deportation, including crimes that are considered misdemeanors under state law. For those immigrants with families, including citizen children, the separation means family dissolution, economic hardship, and trauma.
- “Mixed status” families—those with citizen children and non-citizen parents—represent nine percent of all American families with children.
- Immigrant parents become entangled in the criminal justice/immigration systems in a number of ways. An immigrant who is applying for lawful permanent residence or citizenship could be detained and/or placed in deportation proceedings if the application or fingerprint check reveals a criminal history based on an old conviction record that can now be considered grounds for removal, even though he or she completed a criminal sentence.
- Similarly, a lawful permanent resident may legally leave the country to visit relatives and, upon return, be apprehended by customs or immigration officials for crimes from the past, long after serving time.
- Alternatively, an immigrant may run afoul of the system beginning with a law enforcement encounter. If prior criminal history or undocumented status appears in the course of a law enforcement background check, then the person could be detained and/or placed in deportation proceedings.

Case Studies

C.T., born in Cambodia, is a parent, married with a child. He is a responsible worker and a good father. In his youth, he was involved in a robbery. Several years ago, he sought assistance in applying for citizenship. C.T. is not currently being sought by immigration officials. However, upon advice, he abandoned his application for citizenship because it could trigger deportation. C.T. and his family live under the cloud that they may be separated through deportation or indefinite detention, as a result of his old criminal record from his youthful mistake.

* * *

“How can I have a future without my father?”

—A Pennsylvania boy threatened with the deportation of his father.*

- As a result of these policies, immigrant victims of crime fear deportation if they seek help from the police. Even upstanding members of immigrant communities express fear and the desire to avoid authorities in this climate. Studies suggest that fear of deportation or other immigration-related consequences may also deter immigrant parents from applying for Medicaid or Children’s Health Insurance Programs for their citizen children, resulting in uninsured rates double those of children whose

parents are citizens. The harsh legal climate may also have a chilling effect on naturalization and deter people who are eligible for citizenship from seeking it.

THE SOLUTION: KEEPING FAMILIES TOGETHER

- Federal law should be amended to help keep families together by:
 - Restoring the authority of immigration judges to grant relief when appropriate during the deportation process.
 - Reducing the number of crimes for which deportation is imposed.
 - Reinstating eligible immigrants' ability to apply for bond and parole.
 - Limiting the circumstances in which mandatory detention is required.

- Low-income immigrants need access to legal counsel, and immigrant communities need education about current immigration laws.
- Initiatives that encourage the exchange of information among criminal lawyers, immigration lawyers, and immigration service providers should be supported.

This fact sheet is adapted from "Divided Families: Consequences of Contact with the Criminal Justice System" by Judith Bernstein-Baker and Joseph Hohenstein in *Every Door Closed: Barriers Facing Parents With Criminal Records* by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. Jointly published by the Center for Law and Social Policy and Community Legal Services, Inc., of Philadelphia, *Every Door Closed* and this series of fact sheets have been made possible by grants from the Charles Stewart Mott Foundation.

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