Wellbeing of Families and the Legal System

Center for Women in Transition | 2022

Introduction and Summary

Missouri has a particularly high rate of incarceration even within the U.S.; moreover, the state's rate of incarcerated women outpaces the nation. In Missouri, 105 per 100,000 women are incarcerated, according to the Prison Policy Initiative, whereas nationwide, it is an estimated 60 per 100,000.[1] Women face unique challenges leading them into incarceration, including frequent histories of trauma, abuse, substance use, and co-occurring mental health issues. These issues are frequently exacerbated by incarceration. Women are also more likely than incarcerated men to be parents, and especially to be primary caregivers at the time of their incarceration. This means that their incarceration does not just harm the imprisoned woman, but also their families and communities.

Background

Incarcerated women's unique experiences highlight the need for specific support in order to ensure the wellbeing of justice-involved women and their families. A wide range of issues impact this population. Over half (62%) of women in prison and the majority (80%) of women in jail are mothers of children under the age of 18.[2] Most of these mothers have custody prior to their incarceration, meaning that children are dramatically impacted by paternal incarceration.[3] Incarceration often limits access to benefits for incarcerated women as well as their families. In Missouri specifically, there remains a partial ban on access to SNAP (Supplemental Nutrition Assistance Program) following incarceration and a full ban on access to TANF (Temporary Assistance for Needy Families) for those with felony convictions related to controlled substances.[4] This is especially significant because, compared to men, incarcerated women are more likely to be imprisoned for a drug charge: the Sentencing Project found that 26% of

[1] Sawyer, W. (2018). *The Gender Divide: Tracking Women's State Prison Growth*. Prison Policy Initiative. https://www.prisonpolicy.org/reports/women_overtime.html
[2] ibid.
[3] Maruschak, Laura, Lauren Glaze and Christopher Mumola. 2010. "Incarcerated Parents and Their Children: Findings From the Bureau of Justice Statistics." Pp. PAGES in *Children of Incarcerated Parents: A Handbook for Researchers and Practitioners*, edited by M.J. Eddy and J. Poehlmann. Washington, D.C.: The Urban Institute.
[4] Thompson, D., & Burnside, A. (2021). *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions*. The Center for Law and Social Policy. https://www.clasp.org/publications/report/brief/no-more-double-punishments

women in prison are there with a drug charge, compared to 13% of men who are imprisoned.[5] Justice-involved women and their families are required to navigate both criminal and family courts, particularly when a woman's incarceration jeopardizes her custody over her children. These legal systems are complex and women often lack support and advocacy, presenting difficulties reuniting families following incarceration. This is despite data showing that family reunification gives previously incarcerated mothers a sense of purpose and responsibility which ultimately reduces their likelihood of recidivism.[6,7,8,9] Finally, incarceration introduces a number of barriers to accessing both mental and physical healthcare. As incarceration often co-occurs with histories of trauma and substance use, justice-involved women in particular would benefit from access to substance use treatment, trauma-informed care, and safe healthcare, both while incarcerated and immediately upon release.

Missouri has taken some steps to mitigate the impact of incarceration on women and families. For instance, the Primary Caretaker Bill passed in 2021 requires judges to account for caretaker status in the sentencing process, encouraging diversion from incarceration for nonviolent women with children. The Feminine Hygiene Bill also passed in the 2021 legislative session provides tampons to incarcerated women, addressing some health risks of incarceration.[10] However, more work should be done to ensure the health and well-being of justice-involved women and their families.

Gender-Responsive Recommendations

The Center for Women in Transition supports gender-responsive programming to reduce the harms of incarceration on women, families and communities. These programs include providing substance use treatment and trauma-informed mental health care; addressing medical needs; and implementing support for women navigating family and legal courts.

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[5] The Sentencing Project (2016). *Incarcerated Women and Girls*. Fact Sheet. https://www.sentencingproject.org/wp-content/uploads/2016/02/Incarcerated-Women-and-Girls.pdf
[6] Boehm, J. (2007). *Missouri Makes It Missouri Makes Its Move Toward a New Reentry Philosophy*. Topics in Community Corrections. https://nicic.gov/sites/default/files/022787.pdf
[7] Brown, M., & Bloom, B. (2009). Reentry and Renegotiating Motherhood: Maternal Identity and Success on Parole. *Crime & Delinquency*, *55*(2), 313–336. https://doi.org/10.1177/0011128708330627
[8] Michalsen, V. (2011). Mothering as a Life Course Transition: Do Women Go Straight for Their Children? *Journal of Offender Rehabilitation*, *50*(6), 349–366. https://doi.org/10.1080/10509674.2011.589887
[9] Richie, B. E. (2001). Challenges Incarcerated Women Face as They Return to Their Communities: Findings from Life History Interviews. *Crime & Delinquency*, *47*(3), 368–389. https://doi.org/10.1177/0011128701047003005
[10] SB 53, General Assembly. (Missouri 2021). https://www.senate.mo.gov/21info/pdf-bill/tat/SB53.pdf

Provide substance use treatment and trauma-informed mental health services.

Keeping in mind the underlying mental health and substance use of many justice-involved women, providing treatment and trauma-informed care is necessary to reduce recidivism and support successful re-entry. Substance use frequently is rooted in or co-occurs with trauma and ensuing mental health concerns. Incarcerated women in particular have high rates of mental illness, with one Missouri study showing over twice the rate of mental illness amongst incarcerated women compared to men.[11] Providing trauma-based mental health care following reentry can reduce recidivism.[12] Obtaining screenings for mental health, substance use, and trauma can help link re-entering women to relevant services. Additionally, involving incarcerated women in creating a plan for accessing care following release allows women to take ownership of their own lives, ultimately improving mental health post-release.[13, 14]

How CWIT Provides Trauma-Informed Care:

Existing literature demonstrates the efficacy of trauma-informed mental health care services in reducing recidivism rates. The gender-specific programming at the Center for Women in Transition uses a trauma-informed lens that responds to the high levels of trauma experienced by the population served. Examples of this programming includes the Women's Risk Needs Assessment, which identifies the unique risks posed for incarcerated women; the Moving On life skills programming, which allows impacted women a space to explore future goals and build connections; and the Beyond Trauma program, a psychoeducation group that increases residents' knowledge of the impact of trauma on the brain and body and coping skills and treatment methods. Alongside policy change related to increasing the availability of trauma-informed mental health care for women impacted by incarceration, reentry services organizations such as CWIT can work towards improving women's mental health post release and ultimately reducing recidivism rates.

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[11] *Offender Reentry and Mental Illness*. (n.d.). STL Alliance for Reentry. http://stlreentry.org/white-papers/43-offender-reentry-and-mental-illness.html

[12] Boehm, J. (2007). *Missouri Makes It Missouri Makes Its Move Toward a New Reentry Philosophy*. Topics in Community Corrections. https://nicic.gov/sites/default/files/022787.pdf

[13] Ramirez, R. (2016). *Reentry Considerations for Justice-Involved Women*. Center for Effective Public Policy. https://cjinvolvedwomen.org/wp-content/uploads/2016/07/Reentry-Considerations-for-Justice-Involved-Women-FINAL.pdf

[14] Substance Abuse and Mental Health Services Administration. (2020). *After Incarceration: A Guide to Helping Women Reenter the Community.* Publication No. PEP20-05-01-001. Rockville, MD: Office of Intergovernmental and External Affairs. Substance Abuse and Mental Health Services Administration. https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP20-05-01-001_508.pdf

Research shows that harm reduction is the most effective approach to treating substance use.[15] Rather than a specific treatment, harm reduction emphasizes creating stable and safe environments and mitigating the negative impacts of substance use, including lowering risk of HIV. Harm reduction as an approach can operate in conjunction with other evidence-based treatments, such as medically assisted treatment (MAT), cognitive-behavioral therapy, and motivational interviewing.[16,17]

While Missouri undertakes random urinalysis of those on parole and probation, treatment upon reentry and support for long-term substance use treatment varies.[18] This is despite evidence showing that MAT and other community-based treatment reduces recidivism and increases success in desisting from substance use.[19] Providing community-based treatment reduces taxpayer costs. As illustrated in a report by the Missouri Department of Corrections, the average annual cost for drug treatment is around $2,250, compared to the $19,500 for incarceration in the case that an individual recidivates due to substance use. Treatment drastically reduces recidivism: in 2018, the Department of Corrections found that 8.5% of those who received treatment were re-incarcerated within a year of release, compared to 30.2% of those who needed but never received treatment.[20]

Medically-assisted treatment (MAT) is an increasingly common approach to drug and alcohol use disorders, and is rooted in evidence-based research.[21,22] MAT has been shown to be an effective approach for pregnant women in particular.[23] In addition, providing accessible

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[15] Substance Abuse and Mental Health Services Administration. (2020). *After Incarceration: A Guide to Helping Women Reenter the Community.* Publication No. PEP20-05-01-001. Rockville, MD: Office of Intergovernmental and External Affairs. Substance Abuse and Mental Health Services Administration. https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP20-05-01-001_508.pdf
[16] ibid.
[17] Ramirez, R. (2016). *Reentry Considerations for Justice-Involved Women*. Center for Effective Public Policy. https://cjinvolvedwomen.org/wp-content/uploads/2016/07/Reentry-Considerations-for-Justice-Involved-Women-FINAL.pdf
[18] *Therapy and Treatment*. (n.d.). Missouri Department of Corrections. https://doc.mo.gov/programs/education/therapy-treatment
[19] *Missouri Intervention & Treatment Programs for Substance Use*. (n.d.). Missouri Department of Corrections. https://doc.mo.gov/media/pdf/missouri-intervention-treatment-programs-substance-use
[20] ibid.
[21] Substance Abuse and Mental Health Services Administration. (2020). *After Incarceration: A Guide to Helping Women Reenter the Community.* Publication No. PEP20-05-01-001. Rockville, MD: Office of Intergovernmental and External Affairs. Substance Abuse and Mental Health Services Administration. https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP20-05-01-001_508.pdf
[22] *Missouri Intervention & Treatment Programs for Substance Use*. (2018). Missouri Department of Corrections. https://doc.mo.gov/media/pdf/missouri-intervention-treatment-programs-substance-use
[23] ibid.

treatment options and material support to access those options—such as transportation, state-subsidized health insurance, and childcare—increases retention in treatment programs.[24]

Address medical needs.

Incarcerated and formerly incarcerated women have unique medical and health needs, including access to reproductive healthcare. In particular, formerly incarcerated women have higher rates of sexually transmitted infections (STIs) than the general population that frequently remain untreated.[25] Amongst previously incarcerated women, rates of Hepatitis B and C are also high and frequently require treatment upon release.[26] Incarcerated and previously incarcerated women exhibit higher rates of physical health issues as a result of social conditions prior to incarceration, such as poverty, housing instability, and stress.[27] Research has shown that accessibility and quality of healthcare varies considerably between different jails and prisons, with health concerns sometimes going untreated[28]; therefore, connecting women to services during incarceration and upon release is a pressing concern. While a recent senate bill changed Medicaid policy for incarcerated people—suspending rather than terminating Medicaid upon incarceration—additional work is needed to guarantee continuity of care upon release.[29]

Implement support for family reunification and navigating the legal system.

Incarcerated women are much more likely to have had primary custody of their children prior to incarceration than men.[30] This means that, in addition to navigating criminal courts, many incarcerated women are also navigating family courts. Implementing support for women as they navigate family court could increase rates of reunification, which, in turn, decreases recidivism

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[24] Substance Abuse and Mental Health Services Administration. (2020). *After Incarceration: A Guide to Helping Women Reenter the Community.* Publication No. PEP20-05-01-001. Rockville, MD: Office of Intergovernmental and External Affairs. Substance Abuse and Mental Health Services Administration. https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP20-05-01-001_508.pdf

[25] ibid.

[26] Salem, B. E., Nyamathi, A., Idemundia, F., Slaughter, R., & Ames, M. (2013). At a Crossroads: Reentry Challenges and Healthcare Needs among Homeless Female Ex-Offenders. *Journal of Forensic Nursing*, *9*(1), 14–22.

[27] Ventura Miller, H. (2021). *Female Reentry and Gender-Responsive Programming*. National Institute of Justice. https://nij.ojp.gov/topics/articles/female-reentry-and-gender-responsive-programming

[28] *Incarcerated Women's Health & Health Insurance for Reentering People*. (2017). National Clearinghouse for the Defense of Battered Women. https://www.futureswithoutviolence.org/wp-content/uploads/Health-NCDBW-Reentry-Internet-Listing-FINAL-3-23-2017.pdf

[29] SB 514, General Assembly (Missouri 2019). https://www.senate.mo.gov/19info/pdf-bill/tat/SB514.pdf

[30] Maruschak, Laura, Lauren Glaze and Christopher Mumola. 2010. “Incarcerated Parents and Their Children: Findings From the Bureau of Justice Statistics.” Pp. PAGES in *Children of Incarcerated Parents: A Handbook for Researchers and Practicioners*, edited by M.J. Eddy and J. Poehlmann. Washington, D.C.: The Urban Institute.

and re-offending.[31, 32] There are a number of stages of intervention in this process: ending Missouri's cash bail system, diversion programs to keep primary caregivers out of jail or prison, fostering relationships between children and incarcerated mothers during the period of incarceration, and promoting reunification upon release.

This year, Missouri's Senate Bill 53 adopted language encouraging judges to consider status as a primary caretaker and provide alternatives to incarceration for those convicted of a nonviolent offense.[33] This was an important step for avoiding parental incarceration and for cutting costs to the state: Missouri Appleseed estimates that paternal incarceration costs over $20,000 annually per incarcerated person in addition to $10,000 annually per child who is placed into foster care.[34] However, the bill does not apply to all incarcerated people; moreover, while the bill encourages judges to consider parental status it does not mandate diversion from incarceration for primary caretakers. While future legislation can work to expand diversion programs such as these, other measures can be taken to decrease rates of parental incarceration and to improve mother-child relationships in the event of incarceration.

Research shows that visitation programs and other support for maintaining mother-child contact can reduce recidivism rates for incarcerated mothers and can attenuate some of the negative consequences of maternal incarceration on child outcomes.[35,36] Because Missouri only has one women's prison, many children face barriers in visiting their mothers during the period of incarceration. Financial resources and programs for promoting visitation[37] have been shown to improve both maternal and child outcomes.[38]

Finally, upon reentry, support for reunification has been shown to benefit mothers by decreasing the likelihood of recidivism and to improve outcomes for children.[39] Implementing advocacy for mothers navigating family courts—paralleling court advocates for children whose parents are

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[31] Boehm, J. (2007). *Missouri Makes It Missouri Makes Its Move Toward a New Reentry Philosophy*. Topics in Community Corrections. https://nicic.gov/sites/default/files/022787.pdf
[32] Brown, M., & Bloom, B. (2009). Reentry and Renegotiating Motherhood: Maternal Identity and Success on Parole. *Crime & Delinquency*, *55*(2), 313–336. https://doi.org/10.1177/0011128708330627
[33] SB 53, General Assembly. (Missouri 2021). https://www.senate.mo.gov/21info/pdf-bill/tat/SB53.pdf
[34] *Primary Caretaker Legislation*. (2020). Missouri Appleseed. https://missouriappleseed.org/wp-content/uploads/2020/02/Primary-Caretaker-Legislation-Report-Short-Form.pdf
[35] Poehlmann, J. (2005). Incarcerated Mothers' Contact With Children, Perceived Family Relationships, and Depressive Symptoms. *Journal of Family Psychology*, *19*(3), 350–357. https://doi.org/10.1037/0893-3200.19.3.350
[36] Myers, B. J., Smarsh, T. M., Amlund-Hagen, K., & Kennon, S. (1999). Children of incarcerated mothers. *Journal of Child and Family Studies*, *8*(1), 11–25. http://dx.doi.org/10.1023/A:1022990410036
[37] For a list of Missouri-based programs providing support for children of incarcerated parents, see Missouri Kids Count: https://mokidscount.org/stories/missouri-programs-children-incarcerated-parents/
[38] Prison Policy Initiative. (n.d.). *Separation by Bars and Miles: Visitation in state prisons*. https://www.prisonpolicy.org/reports/prisonvisits.html
[39] ibid.

incarcerated—could help families reunite after incarceration. Transportation is also a barrier to appearing in custody court; transportation services should be provided that could overcome barriers to appearing in court and ultimately reduce inequities in the family welfare system. Additionally, providing financial support for reentering mothers, increasing access to affordable childcare, and connecting families to social services could help benefit both mothers and children long-term.

Conclusion

Incarceration has a number of impacts on individual and family well-being. The Center for Women in Transition is already engaged in work to mitigate some of these impacts and lower recidivism following reentry from incarceration. From behavioral healthcare to material support, CWIT has been incredibly successful in bolstering women's well-being after incarceration. However, we recommend implementing and further developing a number of programs to further assist individuals and families during and following incarceration. These steps should be gender-responsive and attuned to the adverse experiences that many previously incarcerated women have faced.

First, comprehensive mental health services and substance use treatment should be more readily available upon release*.* Research has consistently indicated that trauma-informed mental healthcare as well as treatment for substance use lower rates of recidivism and improve women's mental and physical health. Moreover, these supports are necessary to ensure smooth reintegration into families and communities. ***Second, continued access to physical healthcare should be facilitated.*** While rates of sexually transmitted infections and other diseases tend to be higher amongst incarcerated populations, women frequently lack continuity of care following release. Connecting incarcerated women to care beyond their time in prison or jail can improve both individual and population health outcomes. ***Finally, we recommend implementing more comprehensive support for women and families navigating the legal system****.* We support diversion programs such as the Primary Caretaker Bill, and recommend providing material resources to children to visit incarcerated parents. Additionally, we advise providing mothers navigating family courts with legal advocates to encourage family reunification, which has been shown to benefit both mothers and children and to lower rates of recidivism.

Missouri incarcerates women at higher rates than the national average. The incarceration of women impacts individual, family, and community well-being. At CWIT, we encourage taking steps to mitigate the harms of incarceration at these micro- and macro- levels.