



Women's Advocacy Project

2005 Policy Recommendations:

“Making Family Reunification a Reality for Criminal Justice-Involved Women”

Who We Are

The Women's Advocacy Project (WAP) began in 2003 with the goal of developing a group of leaders equipped to craft solutions to the problems facing incarcerated and formerly incarcerated women. WAP is comprised of a diverse group of women who are working in the community, formerly incarcerated, and/or current or former participants in treatment and alternative to incarceration (ATI) programs. In a climate where our perspectives are sorely lacking, WAP teaches women to draw from experiences with the criminal justice system to create and carry out strategies for change.

Our Process

From November 2004 – July 2005, participants in the Women's Advocacy Project met to discuss the problems facing women who encounter both the criminal justice and child welfare systems. All of us have some form of direct experience with these systems, either through our own lives, the lives of community members, or the work that we do. After looking at these issues from both personal and systems perspectives, we created this set of policy recommendations for change. These recommendations are aimed at making family reunification a *reality* for women involved in the criminal justice system.

Part 1: The Problems

Part 2: Recommendations for the Child Welfare System

Part 3: Recommendations for Criminal Justice System

Part 4: Cross-Systems Recommendations

Attachments:

Improving Discharge Planning (2003 WAP Recommendations)

Improving Legal Representation of Parents in Family Court (2004 WAP Recommendations)

Part 1: The Problems

Incarcerated parents face many barriers to maintaining contact with their children and preserving their parental rights.

- Parents' attorneys, the children's law guardians, ACS workers, foster care agencies, and judges often don't follow through on visitation.
- Corrections' rules make family visitation and maintaining communication difficult. Children can only visit on certain days, and not all correctional facilities have family visiting spaces. In addition, high telephone rates put a heavy financial burden on families trying to stay in touch.
- Many mothers are incarcerated too far from their children to make regular visits possible.
- When a parent is incarcerated, it is difficult for her and her child to voice and address concerns about the foster care situation.
- Incarcerated women are not provided with information on how to prevent termination of parental rights; inside correctional facilities this information is only sporadically available at best.
- Women have trouble getting produced for Family Court, though they face no such barrier in getting produced for Criminal Court.
- Foster care parents don't get specialized training in caring for children of incarcerated parents.
- There are not enough alternatives to incarceration available to women who would benefit from being in the community rather than prison.

Women have trouble reunifying with their children, even after they are released from prison and living in the community.

- There is a lack of adequate discharge planning from correctional facilities. As a result, women lack housing for themselves and their children, benefits that would help them stabilize economically after release, and skills and resources they need to become employed.
- Women lack access to counselors and family therapy to help them and their children with the reunification process.
- Judges' mandates on women are often not realistic. For example, a woman may be required to complete drug treatment within 15 months, but the programs available to her take 18 months to complete.
- Foster care agencies do not provide clear information on the steps needed to reunify, and many parents feel that they don't know where they are in the reunification process.
- The foster care system is not sensitive enough to families' needs in regard to reunification, especially when a parent is incarcerated. Foster care agencies don't emphasize their duty to reunify families.

For women and children with special needs, there are additional barriers to family reunification.

- Treatable mental illnesses are too often used to separate children from parents and as a basis for termination of parental rights. There is not enough investigation into a parent's capacity to parent after they are diagnosed. Women are labeled as mentally ill or addicted in order to access services, and then are punished for it in family court.
- The corrections and child welfare systems are not literate in or sensitive enough to mental health and substance abuse issues. Among these systems, there is not enough attention to the roots of mental illness and addiction in women. There is a general lack of gender and trauma sensitivity in these systems' approaches to mental illness and addiction.
- There is a lack of consultation with parents about their children's health history when children enter foster care.
- Incarcerated mothers don't have the resources they need (such as access to information and telephones) to make decisions about their child's medical care. Often they are not given the opportunity to make these decisions.
- Behavior of children evidencing trauma from a mother's incarceration is diagnosed as mental illness and medicated improperly, or over-medicated.

Non-English speaking women don't have enough information in regards to their rights in the criminal justice and child welfare systems.

- There is not enough literature available in other languages than English.
- There are not enough speakers of other languages available to parents at all levels of the process: at ACS and foster care agencies, in court and with lawyers, in correctional settings.
- After arrest, non-English speakers are often unable to have the benefit of an interpreter until their first scheduled court date.

Part 2: Recommendations for the Child Welfare System

- Parents should have consistent legal representation so that they are well-informed of the steps necessary to reunify with their children (see WAP 2004 recommendations).

Maintaining Family Connection During Incarceration

- Courts, parents' attorneys, law guardians, ACS, and foster care agencies should make it a priority to ensure that visits between parents and children occur.
- ACS should collect data on children of incarcerated parents in order to get a clearer picture of the special challenges they face.
- Provide incarcerated parents with information regarding their rights to visitation.
- Create a Parent Advocate position at each foster care agency to field questions and concerns from incarcerated parents about their children's foster care.
- Create a State watchdog for children of incarcerated parents to ensure that they are getting the services and visits they need despite the parent's incarceration.

Reunification and Foster Care

- ACS, law guardians, and the courts should keep up-to-date on the reality of programs available to women in the community, so that mandates imposed on mothers trying to reunify are not unrealistic.
- ACS and the courts should recognize services (such as parenting classes and substance abuse treatment) completed by parents in correctional facilities.
- Foster care parents should receive specialized training on caring for the child of an incarcerated parent, highlighting the unique trauma of this separation, and the special challenges for maintaining contact and working toward reunification.

Parents and Children with Special Needs

- Unless a thorough mental health evaluation indicates that a parent is incapable of parenting, mental illness should not be used as a basis for termination of parental rights.
- Parents with mental health issues should receive supportive services as they prepare to reunify with their children.
- Create more resources for preventive mental health services for kids entering foster care.
- Use a range of interventions for children with mental health issues, not just medication.
- Parents should be entitled to a second opinion about their child's medical care when the child is in foster care.
- Foster parents, biological parents, and other caretakers should receive training on caring for children with mental health and behavioral issues.

Part 3: Recommendations for the Criminal Justice System

- Corrections should review their regulations in regards to mail, phone calls, and visitation, to ensure that they are family-friendly and do not have a negative impact on parents trying to maintain family relationships and retain custody of their children.
- Create a comprehensive discharge plan for all individuals leaving correctional facilities (see 2003 WAP recommendations).

Visitation

- Every correctional facility should have a family visiting room for children visiting their parents.
- When appropriate, trailer visits should be allowed for children visiting their parents.
- Children should be allowed to visit correctional facilities any day of the week, not just on specific days.
- Create a special unit of COs who will be trained in family issues and assigned to posts in the visiting room and counseling area.
- Change the classification system so family situation is taken into account and parents are not incarcerated far away from their children.

Communication

- Corrections should provide more access to phone calls for parents trying to maintain relationships with their children.
- DOCS should end its contract with MCI and provide telephone service that does not place a financial burden on families of the incarcerated.

Information

- Corrections should allow outside agencies to send more counselors, case managers, social workers, and legal experts inside correctional facilities to help women understand and retain their parental rights.
- Upon entry to the correctional facility, everyone should be given a resource book explaining parental rights and responsibilities, such as the ACS handbook created for this purpose.
- Law libraries should be kept up-to-date and well-staffed by civilians with legal expertise.

Staffing, Programming and Training

- Create a Parenting Office at each correctional facility so that parents have a reliable source of information about maintaining their parental rights.
- Good programs, such as the parenting program at Bedford Hills CF, should be replicated and expanded.
- Train corrections administrators to sensitize them to family issues.

Part 4: Cross-Systems Recommendations

- Foster care agencies, ACS, and corrections should work together to have incarcerated women produced for Family Court appearances.
- Expand ACS's CHIPP program to all correctional facilities where children's parents are incarcerated.
- Create a continuum of more affordable housing options: emergency, transitional, and permanent, for women with and without children, and those who are trying to reunify with children.
- Create more resources for counseling and therapy in the community for women and their children.
- Women with mental illness and substance abuse issues should be educated about their rights, and about the potential consequences of establishing a history of mental illness in court.
- Provide gender-specific training to corrections and child welfare system staff on mental health and substance abuse issues so that they will be better equipped to deal with women facing these issues.
- Make literature from the child welfare and criminal justice systems more readily available in languages other than English.
- Parents should have access to translators at every encounter with the child welfare and criminal justice systems, and at every court date.
- Increase investment in alternatives to incarceration and expand the availability of these programs to women with children, and those with mental health and substance abuse problems.