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Eroding Legitimacy? The Impact of Imprisonment on the Relationships between Families, Communities, and the Criminal Justice System

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Introduction

The imprisonment of a family member can affect virtually every element of family life, causing disruption to housing, finances, relationships, and caring arrangements; particularly where families choose to undertake the demanding task of supporting the person in custody (Comfort, 2016; Light and Campbell, 2006). Further, there is a now an emerging consensus that the damaging effects of imprisonment stretch far beyond individual families, also having a pronounced, negative effect at a societal level. Much of this research originates from the United States, a jurisdiction which has experimented with a large-scale and highly racialized use of imprisonment, often termed Mass Incarceration (Foster and Hagan, 2015; Christian and Thomas, 2009; Alexander, 2010). Such widespread use of imprisonment has been shown not only to have contemporaneous negative consequences for children, but to also reinforce the structural inequalities that limit future life chances, thus further entrenching racial and social inequalities (Wakefield and Wildeman, 2014).

The effects of mass incarceration are highly geographically concentrated, serving to undermine the capacities and resources of many of the poorest communities. As

residents cycle in and out of the prison in large numbers, this creates increased mobility and social isolation, eroding social capital and collective efficacy (Clear, 2002). Opportunities for families affected by imprisonment to participate in their community are reduced, as the large investments of time required to support a family member in custody limit their chances to engage with other civic institutions such as schools, churches, or community life. Consequently, these families are less likely to participate politically (Sugie, 2015), creating a set of circumstances whereby the criminal justice system becomes a key agent of political socialization (Lee et al., 2014).

Importantly, the disproportionate contact between such marginalized communities and the criminal justice system also serves to undermine trust and confidence in formal agencies of social control (Clear, 2002). This distrust has been conceptualized as 'legal cynicism', or the feeling that the law lacks relevance to a person's everyday life and concerns, which is cultivated and exacerbated in communities which experience highly concentrated levels of individuals returning from custody (Kirk, 2016). Such mistrust can then become heightened still amongst families affected by imprisonment, as poor or degrading treatment by criminal justice professionals—either of the person in custody or the family themselves—fosters a view that both the criminal justice systems lack legitimacy and cannot be trusted (Lee et al., 2014).

In sum, this body of literature raises important questions about the role of criminal justice agencies within these families and communities, and how social inequalities consequently become heightened and entrenched. Yet, while mass incarceration may be unique to the United States, it cannot be assumed that analogous processes are not operating within a European or UK context. For example, Scotland's imprisonment rates

are amongst the highest in Western Europe (Scottish Prisons Commission, 2008), with a pronounced over-representation of the most deprived communities amongst its prison population (Houchin, 2005). Scottish police have also been found to disproportionately warn, charge, or stop and search white working-class boys and young men *because* of their social marginality and class position, rather than the utility of these approaches in detecting or reducing offending (Lennon and Murray, 2016; McAra and McVie, 2005); and there is a large body of evidence to show that poor interactions with UK criminal justice professionals are damaging to legitimacy (Brunton-Smith and McCarthy, 2016; Jackson et al., 2012; Hough et al., 2010). Perhaps most crucially, all jurisdictions which use imprisonment as a primary form of punishment will necessarily have to confront these questions (Condry, this volume).

In this chapter, I will attempt to address these issues through the conceptual lens of legitimacy. This theoretical framework was first applied in the context of imprisonment by Sparks, Bottoms, and Hay to better understand order and compliance in prisons (Sparks, Bottoms, and Hay, 1996). In their landmark study, *Prisons and the Problem of Order*, Sparks et al. argue that prison officers cannot simply impose their authority. Rather the terms of these power relations should be defined by clear rules, consented to by prisoners, and also justifiable from their perspective (Sparks and Bottoms, 1995; Beetham, 1991). These arguments are instructive here as they highlight not only the importance of justice, fairness, and respect in achieving legitimacy, but also the damaging effects when these qualities are absent from seemingly 'everyday' interactions:

Every instance of brutality in prisons, every casual racist joke and demeaning remark, every ignored petition, every unwarranted bureaucratic delay, every inedible meal, every arbitrary decision to segregate and transfer without giving clear and well-founded reasons, every petty miscarriage of justice, every futile and inactive period of time is deligitimizing (Sparks and Bottoms, 1995, 607).

Further, recent scholarship has demonstrated that legitimacy is not a 'single transaction', rather it is ongoing, dialogical, and relational (<IBT>Bottoms and Tankebe, 2012</IBT>). Consequently, each time those in a position of power make a claim of authority, this must be justified to their wider audiences, who may accept or reject such a claim (ibid). When such claims to legitimacy are rejected, the audience in question are then less likely to comply with the demands of those in power. This is because legitimacy enhances the moral nature of the relationship between social actors, creating normative reasons for compliance (Beetham, 1991; Sparks and Bottoms, 1995). Thus, where prison officers are seen as unfair or unjust in their decision making, motivation to follow or accept their instructions are reduced. Low levels of legitimacy also erode trust, communication, and the quality of relationships with criminal justice institutions (Liebling, 2011).

As the imprisonment of a family member brings families into regular contact with the prison, much of which is often boring, distressing, frustrating or even overtly disrespectful (Hutton, 2016, and this volume; Flynn, 2014; Arditti, 2003) the risk that families will reject the legitimate authority of the prison is clear. While these arguments can equally be made with regard to *all* families affected by imprisonment (see Jardine, 2015), they become increasingly troubling when the experiences of already marginalized

families are considered. These families are not only disproportionately likely to experience the imprisonment of a family member, but this can exacerbate the cumulative social disadvantages they experience, raising important questions about the role of criminal justice institutions in these communities, and the wider implications for justice, fairness, and legitimacy.

Background and methods

These are ambitious questions, and are not the issues which I initially sought out to address. The aims of this research were more modest; predominantly to examine who is affected when a custodial sentence is imposed, and how is this experienced in the Scottish context. In short, I intended to explore who the term 'families affected by imprisonment' might refer to by applying a more critical lens to the concept of family (see Jardine, 2017). To do so, I conducted in-depth interviews with families visiting a person in prison, and also men and women who were serving a custodial sentence.

With regard to the latter, the majority of these interviews were conducted at HMP Greenock, situated in the West of Scotland. Family members were recruited through the Visitors' Centre at HMP Edinburgh, a separate, purpose-built facility situated inside the prison grounds. Thus, almost all of the prisoners and family members were unknown to each other. Towards the end of the fieldwork a small number of additional interviews were conducted in HMP Edinburgh in an attempt to capture the views of *both* the family and the person they were visiting, however this was only achieved in one instance. In

total, ten men and four women were interviewed in custody, and nineteen individuals from fourteen families were interviewed in the Visitors Centre.[1]

As my fieldwork progressed, it quickly became clear that I needed to become a regular presence in the Visitors' Centre both to gain the trust of potential participants, and to be available to conduct interviews at a time that suited them. Thus, over the course of the project I spent upward of 350 hours 'hanging around' the Visitors Centre conducting interviews, but also chatting to families, playing with children, tidying the Centre and making notes of my daily observations. Visitors Centre Staff (n=4) and prison officers (n=8) were also interviewed.

This strategy of 'hanging around' led to the recruitment of a particular group of families who, first and foremost, had made the decision to maintain their relationships by actively visiting the prison. Not all families affected by imprisonment will choose to do so, and many relationships break down over the course of a custodial sentence (Woodall et al., 2009). Further, at the time of the research, the Visitors' Centre delivered a range of support expressly informed by the principles of community education; a pedagogical approach characterized by shared learning and working together to meet the social, political, and personal needs of the group in question (Ceesay, 2012). Perhaps because of this, many of the families who made the greatest use of the Centre, and were therefore

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[1] Where permission was given, interviews were digitally recorded and transcribed in full; and where this was withheld contemporaneous notes were taken (see Jardine, 2015 for a fuller discussion). For those unfamiliar with the Scottish vernacular, a guide to common expressions can be found in the glossary at the end of this chapter.

also happy to participate in my research, were a particularly marginalized group. It is their experiences, and the implications for penal legitimacy, which this chapter will explore.

Families, social marginality, and legitimacy

Supporting a family member in custody can be a long and arduous task, requiring a considerable investment of time, effort, and financial resource (Condry, 2007; Christian, 2005). This exposes families to the power of the prison, even when not physically visiting the establishment, as they must wait at home for telephone calls, shop for items for the person in custody, and seek to devise creative strategies to continue their family relationships (Comfort, 2008; Jardine, 2017). Importantly, these burdens weigh most heavily on the families perhaps least able to withstand them (Halsey and Deegan, 2015; Braman, 2002).

Indeed, participants placed considerable importance on providing material supports to the person in custody, even when this was to the detriment of their own wellbeing. Ensuring the supply of visits, phone cards, and contributions to the person's Prisoner Personal Cash (PPC) account (which funds purchases from the prison canteen such as tobacco or chocolate) was seen by families as an important tool for demonstrating their ongoing love and commitment. Consequently, families would dedicate a considerable proportion of their already scarce resources to this task. For example, Tracey, who was visiting her partner, told of how she had experienced considerable hardship in her own life, including recovering from heroin addiction, serving short periods in custody, and becoming homeless only a few weeks before our interview, when her partner was remanded in custody. Yet despite her own difficulties and limited

resources, Tracey attended all six visiting sessions permitted to remand prisoners each week, and made financial contributions over and above the maximum limit set by the prison by also paying money into her partner's friend's account:

> *Tracey*: But now he knows I will stand by him 110% I mean I have been up here since October six days a week do you know what I mean . . . ken like a day saver a day is £3.50 so my bus fares are like £17 a week and I still do it and it doesnae bother me. And on a Wednesday night I don't get in until half ten, quarter to eleven but I still do it . . . And the amount of times that I have came up to visits and put money into other people's properties because he has wanted I dunno extra tobacco but he has wanted munchies so he is like 'will you put a fiver in somebodies property for me so I can get tobacco and I can buy munchies as well . . .

> *CJ*: Why does it need to go in somebody else's?

> *Tracey*: Because he can only spend a certain amount—so somebody who doesn't get money, he'll get it put it in theirs and then he'll let them buy, what they'll want to buy is a half ounce of baccy so he'll let them buy a half ounce of baccy and he just fills their shop sheet out with sweeties and things like that that he wants. He doesnae do it all the time, it's like maybe once a month or something.

As Tracey explains, these financial contributions and time spent travelling to and attending visits are a means of demonstrating that she is '110%' committed to her partner, despite his imprisonment. However, the poverty experienced by these participants does not only mean that they have fewer resources available to dedicate to supporting their family member, and fewer still left for themselves. Their social marginalization also makes providing this support increasingly costly, both in terms of time and money. For example, if the person in custody does not already own clothes that meet the prison's security requirements, or as some participants noted these no longer fit as a consequence of a prison diet, new—but also affordable—clothes must be found and purchased. This may require repeated shopping trips, often undertaken with small children, and multiple journeys made on public transport to bring these items to the prison.

As the resources which might ease this process—such as childcare, stable incomes, their own transportation or shopping for convenience rather than cost (Holligan, 2016)—were not accessible to participants, it is perhaps unsurprising that tensions could arise between families and prison officers when these items of property were not accepted, payments to PPC accounts were processed incorrectly, or visits were booked but then missed due to court appearances, lateness, or a lack of acceptable identification. The frustration that can arise when such significant investments of time and money prove to be ultimately fruitless is evident in the account of Sophie, a mother of two small children and one of the most amiable but reserved young women to participate in the research. To our amusement, as the events she describes are so out of character, Sophie tells me how she had lost her temper after she and her young daughter travelled to the

prison in the rain, whilst Sophie was heavily pregnant, with the sole purpose of handing in property, for this to be refused because her partner had not supplied the correct paperwork:

> *Sophie*: its such stupid rules . . . you have to have proforms to hand clothes in—I came up one day, it was pissing it down with rain and I brought up clothes for him because that's what he wanted, he never told me I need a proform. And they were like 'No, he can't have them because you got no got a proform.' And I was like 'But I've come all this way with all these clothes in the pissing rain and you're saying I can't because he's not got a special form.' I went mental at them . . . I was like 'That's not my fucking fault he's not got a proform.' And I was like 'I'm sorry for being so angry but I'm heavily pregnant, I've just came up in the rain and now you're telling me I can't even put in what I need to put in.' And he was like 'There's nothing we can do.'. . . [Laughter.]

> *CJ*: I can't imagine you losing your temper [laughing].

> *Sophie*: Because I was so angry. But obviously being heavily pregnant I was I just want to do what I need to do so I can leave – I didn't have a visit that day so

However, our amusement at this encounter belies a more serious point, which must also be recognized. For it is not only the practical and financial costs of imprisonment that can be exacerbated for family members who are already experiencing social marginalization,

but also the emotional ones. It is now well established that the imprisonment of a family member can prompt a range of often difficult emotions—encompassing fear, guilt, distress, and relief (Lanskey et al., 2015; Arditti et al., 2003). Yet, for families already experiencing difficult circumstances, these additional strains can have catastrophic consequences, particularly in the absence of appropriate professional support, as both the accounts of family members and the observational data demonstrate:

> I have been guided by the prison staff and the people here and they have all been fantastic. I was hearing voices about suicide all the time so without the help I am 99% sure I would have killed myself. Sometimes I want to bash my head against the wall stop the voices, but I've managed to stop myself from doing that. [Bill, visiting his step-son in prison.]
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> A young woman came into the office to speak to the Visitors' Centre staff—she was stressed and upset because her partner had told her on the visit that he as being moved to another prison. She was in the office for about an hour and was in tears twice. She seemed very vulnerable: her baby is in care; she takes large amounts of prescription medication daily; she is on dialysis; she had a miscarriage and feels like everything is falling apart because she doesn't know where he is going to be tomorrow and cannot settle while he is on remand (Fieldnote, March 2014).

While these are perhaps extreme examples, similar themes flowed through the accounts of other participants: of the sixteen adults who participated in interviews, seven reported experiencing anxiety, depression, or engaging in self-harm. That quality of relationships with prison officers and Visitors' Centre staff can provide much needed information or

support (as they did for Bill) or can exacerbate feelings of distress, powerlessness, or frustration (as in the latter example) is clearly of normative importance. However, in keeping with the wider literature on legitimacy, perceived unfair treatment can also cause families to question or reject the authority of prison officers, as the account of one young woman attests:

> *Brooke*: they have got the uniform on but they are no the police. They really really annoy me. Put it this way—to be fair I have no respect for them either because what respect do they show us? They dinnae show us any respect so the way I see it is I treat people the way they treat me. And I tell you if I treated them the way they treat us, they wouldnae like it, I would be barred from this place I tell you, I wouldnae get away with swearing at them and 'do this' and 'do that'.

Thus, the legitimacy of the prison is eroded when families feel they have been treated disrespectfully. As the manner in which criminal justice actors exercise their authority communicates to a citizen their value and status within society (Jackson et al., 2012), Brooke's strong reaction is perhaps unsurprising. However, this is not to suggest that officers at HMP Edinburgh deliberately sought to treat families poorly or that examples of positive interactions, such as the support provided to Bill, were not observed. Rather, these tensions are fostered by the complexity of the prison officer role, a focus on prison security, and the difficulties of embedding a families-rights perspective within prisons (Jardine, 2015; Donson and Parkes, this volume; Smith, this volume). Consequently, the prison *as an institution* can impose 'legally-sanctioned stigma' upon visitors,

characterized by inferior treatment, suspicion, and the stigmatization of families (Hutton, this volume).

Social marginality and prolonged criminal justice contact

As the prison population is disproportionately drawn from Scotland's poorest areas, families already experiencing social disadvantage are more likely to experience this stigma. Indeed, one member of the Visitors' Centre team rejected the assertion that imprisonment of a family member has less of an impact where the family has experienced this on multiple occasions. Rather, this participant argued that this served to create an oppositional or 'us and them' relationship between families affected by imprisonment and criminal justice agencies, which could be reinforced by the tensions and frustrations described above:

> *Jamie* (Visitors' Centre): I think there is a funny sort of dynamic between prisoners and families, and prisoners and partners . . . there is always a very funny emm feeling that a lot of the visitors don't think their partner should be here—most of them don't think that their partner should be here. Most of them don't think that they've not done it because most of them do know that they have done things but they will say 'this shouldn't really have happened' and 'he shouldn't be in a place like this' and it's almost as if they don't really have a sense of citizenship if you get me. Which isn't really their own fault because it is the fault of structure but there is definitely a really common hostility towards the state for

having done this, which is reinforced by the relationships

that they have between the prison officers and themselves.

That Jamie links this antagonistic relationship between the families and the prison to a lack a full citizenship is insightful and important, and resonates with arguments that poor interactions with the criminal justice system are damaging to both legitimacy and citizenship (Lee et al., 2014; Jardine, 2015; Condry, this volume; Scharff-Smith, this volume). As Condry observes, this erosion of citizenship cannot be separated from the cumulative disadvantages experienced by many families, as the prison itself exacerbates and compounds these difficulties (Condry, this volume). It is notable, then, that almost a third of participants reported multiple instances of supporting a family member in custody, and that these women were also experiencing acute social marginalization. For instance, Tracey, who as noted above has herself struggled with homelessness, addiction, and previous incarceration, explained that she had been visiting various people in custody for over twenty years:

> *Tracey*: I have been coming up here since I was fifteen, so that is like 20
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> years of my life . . . 20 years of my life I have been coming
>
> to this jail, do you know what I mean.
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> *CJ*: To see lots of different people?
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> *Tracey*: At first it was my brother, and then it was like partners do you
>
> know what I mean, and it was just friends. Most of them
>
> were just friends—one partner and then most of them were
>
> just friends except my brother and my brother-in-law and
>
> then it was my man . . . I've been with him ten years, I

think I was with him two years, three years and then he ended up getting his first sentence do you know what I mean. I think this is his third, this will be his fourth sentence that he is looking at now in the ten years that I have been with him and it's going to be like a flipping killer.

Each of the small interactions that occur over Tracey's twenty years of visiting will impact on her cumulative view as to whether the power exercised over her is fair, just, and transparent. Poor interactions with prison officers may be painfully felt, even if they are relatively few and far between. As one woman who seemed particularly distressed at visiting told me, while an officer had only once in the four years she had been visiting her son refused her a visit and made her cry, she had always remembered how this felt. Such enduring distress and discomfort when visiting the prison resonates with arguments that while the conduct criminal justice professionals can quickly undermine legitimacy, rebuilding this can prove more challenging (McNeill and Robertson, 2013).

Importantly, the perceived legitimacy of the prison amongst families is not only influenced by the experiences of individuals *themselves*. The intimate and connected nature of family life inevitably means that disrespectful or disinterested treatment of those closest to us can also erode the legitimate authority of the prison (Jardine, 2015). This is particularly problematic for families residing in communities characterized by disproportionate criminal justice contact, as broader and deeper connections to the prison are made through their social networks. For example, when I showed Alisha the information sheet for the project—illustrated with a jigsaw denoting the various forms

family relationships might take such as cousin, aunt, friend, partner, or child—she remarked that she had visited nearly all of these relations in prison.

The detrimental effects of these multiple connections with regard to the legitimacy of the prison are further illustrated by the accounts of Brooke and Darcy. These two young women were both visiting their partners in custody, both had fathers who were also in prison and had become friends through their regular visits, and were therefore interviewed together. Given these multiple connections to the prison, over the course of a single interview Darcy spoke of officers who had insulted her father, how her partner was targeted and picked on by the police, and how her friend, Brooke, was treated unfairly when visiting the prison. Importantly, their regular visits had only served to entrench this negative view of the criminal justice system:

> *Brooke*: see without this place [the Visitors' Centre] honestly I would be barred from here I would have ended up head butting one of them I really would have. And I just walk out of there [the jail] and walk over here [the Visitors' Centre] but ken they shouldn't make me feel like that – they shouldn't manage to get me that angry that that is the way that I want to be. And they shouldn't be able to speak to us like we are shit because we are no. No offence but we could have better jobs than them, but they just look at everyone like . . .

> *Darcy*: you are visiting a jail

Brooke: So prison officers have got no respect whatsoever for visitors. Or children—I have seen them asking to empty bairns pockets, but only certain bairns.

Cumulatively, then, their own experiences, together with those of others in their social networks, led Brooke to conclude that she was amongst a group of families held in particular contempt by prison officers. The strength of these hostile views are notable, given the young age of Brooke and Darcy (who were in their late-teens and early-twenties) and that both had experienced parental imprisonment. Their animosity towards the prison arguably reflects the process of social and administrative exclusion detailed by Scharff-Smith (2014, also this volume), whereby young people grow up feeling that state agencies do not work to protect their safety and wellbeing, but instead ignore or exacerbate their distress.

Similar themes also flowed through the ethnographic data, as the following (summarized) extract from my research diary illustrates. Each of these interactions occurred within a three-hour period when the afternoon visiting sessions are held; and while this day was not typical in the sense that *every* day I observed was like this, neither was it atypical (see also Hutton, this volume):

- The first visit has just gone over . . . one woman was very upset by the way that she was spoken to by the gate officers—this was her first time she and her uncle (who was elderly and disabled) had visited the prison . . . and she had gone up to the 'bubble' to hand in property . . . she came back to the Visitors Centre in tears saying that she thought 'she wasn't going to get in' because she didn't know what to do and the officers had

been 'horrible' to her. By this time she was late for her visit and needed help putting her things in the her locker.

- A woman in her thirties came back from the visit very angry saying she had been spoken to in a way that was 'rude' and 'unacceptable'. The Visitors' Centre staff tried to phone a visits manager but couldn't track one down. When they did the visits manager said the woman would have to go to the prison because he would not go to the Visitors Centre. In the end, someone from the centre went over with her.

- This sparked off a discussion between other visitors about how the officers can be rude to them 'even though they are not guilty' and how last week one of the officers had made them wait outside because they were early and 'now they were too scared to go up'.

- A woman and a man who were on a visit came storming back into the Visitors Centre. She was crying because she had been accused of passing drugs . . . they put in a formal complaint.

- Another visitor told us that an officer had told her 'you will respect the uniform'. She then said 'why should we respect them when they don't respect us?'

Crucially, this extract from my research diary illustrates how negative or adversarial interactions between families and prison staff can not only be highly distressing for families, but can also cause them to reject the authority of those officers. As the third and fifth examples demonstrate, discussion amongst visitors broadens out the impact of the initial interaction to include more people than were originally involved. That such

discussions generate questions as to why families should comply with prison officers or regulations further underscores the importance of relationships between families and officers, and that these seemingly small interactions cannot be ignored when considering broader questions as to the impact of imprisonment on families and communities.

Families affected by imprisonment and the criminal justice system

Finally, in contrast to many academics who may choose to focus on one area of the criminal justice system (be it policing, sentencing, or imprisonment), by the time they come to visit somebody in custody each family will have encountered nearly every agency involved in the criminal justice process. This is significant as an individual's previous experiences with one agency—be they positive or negative—do not only seep through their current and future interactions with the agency in question, but can also impact upon their views of another (Bottoms and Tankebe, 2012; Franke et al., 2010). Consequently, many participants did not only hold negative views of the prison; they also described their distress at judges who are '*heartless*' and '*ruin lives*', police who stop their children and social workers and other criminal justice agencies who '*dinnae help you*'.

Indeed, social marginalization may increase the intensity and frequency of contact with not only the prison, but also a wide range of state agencies. While the individual histories of participants were diverse, all but one of adults visiting the prison were women, and only one of these women were in stable employment, with the remainder deriving their income from state benefit entitlement. There is a growing coalescence of criminal justice and social welfare policy in the United Kingdom as fiscal austerity has become entrenched, subjecting women in receipt of benefits to surveillance, scrutiny, and

moral censure of their lives, choices, and often their parenting (Povey, 2017, 272). These families are widely denigrated by politicians, the media, and the wider public (Levitas, 2012; Skeggs and Loveday, 2012); and other families affected by imprisonment have been found to distance themselves from such recidivist or 'criminal families' as a means of claiming such moral authority (Condry, 2007).

This cumulative, stigmatizing, and often overlapping intervention of state agencies in the lives of marginalized families can have profound effects. Parents who were interviewed in custody worried deeply about how their imprisonment would influence their children's views of the criminal justice system and their own place in society. For example, one mother felt that her ex-partner's refusal to bring her daughter to visit the prison was partly motivated by a desire to punish her, but also by a fear that visiting the prison could lead her daughter to conclude that the police are '*bad people*':

I can understand from his point as well because she's old enough now—

she knows what the officers look like and they are like

police and she'll be asking questions about why is mummy

with the police. So he [her father] doesn't want to bring the

wean up for that reason; but at the same time I just think it

would be nice sometimes if they had an establishment

where there are family officers but just in normal plain

clothes, do you know what I mean. Like so the weans are

coming up and they are not having this thought in their

head of they are police, why is my mummy with the police

and then they think that the police are not letting their

mummy come home, so then they hate the police and that's

not a nice thing for a wean growing up to think that the

police are bad people do you know what I mean. (Lorna,

short-term sentence)

As noted previously, these concerns that repeated contact with the prison can further

entrench adversarial relationships between families and criminal justice agencies also

flowed through the accounts of Visitors' Centre staff. These participants explained that

regularly hearing families express negative views about criminal justice professionals had

lead them to develop a programme of community education projects around the theme of

citizenship. One example of this was the 'Meet the Police' project. This initiative was run

every few months at the Visitors' Centre to allow children and families to interact with

the police in a non-threatening environment, as the Centre staff placed a considerable

emphasis on fun (e.g. meeting the police dogs, dressing up, drawing and painting, seeing

the police car, and bringing in balloons and food) while also trying to foster a dialogue

between families and police officers.

Following the conclusion of the research, the Visitors' Centre staff sought to

expand this work through the development of an information booklet for parents entitled

'*My Daddy and the Police*'. This booklet was written '*by prisoners for prisoners*' by a

team of fathers in custody with the support of Visitors' Centre staff, prison officers, and

Police Scotland. The purpose of this booklet is to assist children in understanding various

elements of the criminal justice process, for example: why their parent was arrested, why

their house may have been searched, what a police station is like, why a prison sentence

is given, and why a parent cannot return home until their sentence has passed. The last message from parents in custody to any child reading the booklet is as follows:

> So we can't blame the police?
>
> No, they are just doing their jobs to make sure people are not harmed or frightened, and they offer protection to everyone. Just because they are doing their jobs that doesn't make them bad people. You need to know, and should know, that if, or when, you are in danger, or need help, you can and should go to the police. You should not be frightened of them because the police help people too . . .Your daddy just made some bad choices and that is why I have been put in jail. I want you to make good choices and not the mistakes I have made. (John, Gary, James, Mikey, and Robert, 2016).

That the final message these parents wished to communicate is that children should not blame the police for parental imprisonment, and that they should not be frightened of officers or scared to ask for help underscores the harms of prolonged or repeated criminal justice contact. However, the development of this booklet is also illustrative of an important means of promoting penal legitimacy. As a sense of procedural fairness and the ability to explain *why* seemingly unfavourable decisions have been taken is central to legitimacy (Bottoms and Sparks, 1997), providing families with such information in a format which is accessible, inclusive, and relevant to their concerns is key to limiting the risks to penal legitimacy outlined above. By allowing the voices of prisoners and their families to be heard in these discussions, this booklet is an important step forward to realizing a dialogical model of legitimacy in practice.

Importantly, their inclusion demonstrates to families that their voices and experiences are heard and valued, providing the moral recognition that is central to legitimacy (Liebling, 2011; Sparks, Bottoms, and Hay, 1996). However, *My Daddy and the Police* goes beyond simple acknowledgement or consultation, as the co-productive approach to its development allowed families to *actively* contribute to the growing discussion surrounding families and the criminal justice system. Indeed, the pedagogical principles of community education underpinning this work not only reject unequal power relations, but also expressly seek to be both personally empowering and socially transformative (Freire, 1996). This initiative can therefore be conceptualized as recognizing and celebrating the capabilities of these families, thus supporting social justice (Condry, this volume). Finally, the very act of recognizing that prisoners and their families have a valuable contribution to make to such debates serves an important communicative function not only to the families themselves but also other audiences, challenging the stereotypical depictions of marginalized families and reinforcing their identities as valued citizens.

Conclusions

The interactions between families and criminal justice professionals described in this chapter demonstrate that the ways in which families feel they are treated by criminal justice professionals can have important implications for how fair, just, and legitimate they view the criminal justice system to be. By adopting a conceptual lens of legitimacy, we see that a perceived absence of fairness or respect can cause families to reject the legitimate authority of prison officers, therefore reducing normative motivations for compliance. While such arguments can be made with regard to any family affected by

imprisonment, the risks to penal legitimacy are heightened amongst the most

marginalized families, who are more likely to experience repeated contact with the prison

through multiple members of their family and social networks. This creates greater

opportunities for tensions between families and prison officers to occur, particularly as

these families lack the social, economic, and symbolic capital that might ease such

interactions. The ensuing lack of trust between families and prison officers can inform

relationships with other criminal justice agencies, creating or entrenching an oppositional

or antagonistic view of the criminal justice system.

The delegitimizing effects of tensions between families and prison officers must

be understood and situated within the casual, routine, and everyday stigmatization of

these families. Moral authority is a key component of legitimate power relations, yet this

is often denied to these families as their structural and social marginalization is depicted

as individual or personal failings in popular and political narratives surrounding poverty.

For these families, then, the costs of imprisonment can go beyond financial loss, practical

upheaval, and emotional distress that many families affected by imprisonment

experience. Rather, these strains created by the imprisonment of a family member are

compounded by a fundamental erosion of their feelings of safety, justice, and their own

civic value. Thus, for the most marginalized families, imprisonment does not only

compound their social disadvantage by draining their financial resources, it also

undermines the social and political status which they perceive themselves to hold.

However, while the costs of such tensions between the families and criminal

justice agencies are evident, it also clear that they are not necessarily inevitable. By

allowing these most marginalized families a voice in debates of penal legitimacy, we see

that these families do not want to be in conflict with the professionals with whom they interact. Parents do not want their children to be afraid of the police, and as participants such as Sophie observe, families visiting the prison '*just want to do what I need to do so I can leave*'. For many participants, the more neutral setting of the Visitors' Centre served as an important resource here, providing the information, advice, and a café to wait in that could ease their relationships with prison officers. The community education ethos of the Centre allowed families to become part of a dialogical model of penal legitimacy, as the projects described above help families to understand *why* particular decisions are taken by criminal justice professionals, and communicate to them that their concerns are seen to be valid by criminal justice authorities. Given our only partial understanding of the wider effects of imprisonment on families and communities placing the most marginalized families at the centre of such dialogues is essential. Without this space to contribute to such debates it is likely that the issues that matter most to marginalized families and communities will continue to be overlooked, yet again entrenching social disadvantage and political invisibility.

Glossary

Expression	Meaning
Aye	Yes
Bairns	Children, babies
Dinnae, doesnae	Do not, don't
The jail	Colloquial expression for the prison; often used in place of 'prison/custodial sentence' e.g. 'my son got the jail'.
Ken	Know, you know

Nae	No, not
Nae bother	No problem, OK
Wean	Child, baby
Willnae	Will not, won't

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