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The Curious Invisibility of Children of Prisoners in Canadian Criminal Justice Policy

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Abstract

Children of prisoners face a variety of risks, however little is known about this population in Canada and their needs are poorly served. Between a lack of data collection, lack of any consistent or comprehensive service provision, and lack of recognition in criminal justice policy, these children are rendered 'invisible'. Drawing on a recent qualitative study of parental incarceration in Canada, this issue is explored and it is argued that the experiences and needs of children are particularly vulnerable to being kept invisible. Their continued invisibility, it is argued, allows prison systems to maintain a lack of accountability to prisoners' families and serves an ideological need of the criminal justice system to construct prisoners in punitive and pathologizing ways.¹

Key words:

Parental incarceration; families of prisoners; penology; sociology of childhood; Canadian criminal justice policy;

Introduction

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The topic of families of prisoners has recently faced growing scholarly and policy attention in much of the world after being largely unstudied until the 2000s. Parental incarceration in particular is a growing topic of academic research and the subject of increasing public discussion in Europe and the US (Condry et Scharff-Smith, 2018; Farmer, 2018; Jones et Wainaina-Woźna., 2013; Murray, Farrington, Sekol et Olsen 2009; Wildeman, Goldman et Turney, 2018). However, prior to this special edition of *Revue Criminologie*, there has been scant academic attention to this topic in Canada, which reflects a broader scarcity of data, academic knowledge, service provision, public discussion or policy around parental incarceration in this country.

This article explores the absence of these children from the public policy sphere, and the myriad ways that children of prisoners could be recognized and provided support by prison systems or the broader the state but fail to be. Despite their weekly presence in every prison in the country, little is known about how many children have a parent is in prison, nor about their well-being or care. Drawing on my recent doctoral study of Canadian parental incarceration, which included a review of existing Canadian public prison policy related to children of prisoners, it is shown that children are only peripherally and instrumentally present in prison policy.

I then argue that the invisibility of children of prisoners is no accident, and propose three reasons that contribute to our lack of understanding and policy attention to children of prisoners. First, children tend to be framed as instruments of their prisoner parents by systems that affect them including both prisons and prisoner rights organisations. Second, ignorance of the numbers and needs of children of prisoners, and lack of policy attention to them, serve the purpose of relieving the prison service of any responsibility for these children's well-being. Finally, the existence of children of prisoners are disruptive to punitive political ideologies, and their continued invisibility serves to minimize this disruption.

Methodology

This paper presents evidence gathered as ancillary data in a larger study of Canadian children of prisoners. The larger study sought to understand children's

experience of parental incarceration, and involved interviewing twenty two children and youth from Ontario, aged 7-17, who currently had a parent in a federal or provincial prison, as well as their caregivers. Extensive attention was paid to creating and maintaining rigorously ethical recruitment and consent/assent processes which sought to reduce coercive and harmful effects to child participants (Knudsen, 2016, p.106-109).

As an ancillary measure, a variety of key informants with insights into parental incarceration were interviewed and analysis of textual material related to familial incarceration in Canada was conducted, which form the data presented in the present article. I conducted interviews with 20 key informants who had a range of experiences with or expertise around prisoners' families or the prison system in general. I recruited these through direct requests to individuals and organizations that might be able to offer insight into the systemic or structural issues affecting children of prisoners in Canada, as well as further snowball sampling. Key informant interviews were conducted in Ottawa, Kingston and the Greater Toronto area between 2011-2013. The interviews were recorded, transcribed and coded using NVivo qualitative research software, and content analysis undertaken. The interviews sought information about the key informant's knowledge of parental incarceration, services available to this group, and information and opinion about the social policy context, (appendix 1: Interview Schedule).

The key informants were a combination of front line service workers who had some experience providing services to families of prisoners, Executive Directors of several charitable agencies, advocates for criminal justice system reform, and prison system activists. I quickly achieved saturation in key informant interviews and I posit that I interviewed a representative sample and significant portion of those with professional insight into the systemic issues faced by children of prisoners. That said, there is a significant gap in this sample as I was refused interviews by representatives of Correctional Service of Canada (CSC) or the federal correctional officers' union (Knudsen 2016). The lack of data from prison-side service providers and policy-makers is a significant omission that limits the power of the present study.

Information about programming for or attention to children of prisoners in Canadian prison services, and broader social policy instruments, were gathered through online searches of academic sources and publicly available information.

Conceptual framework

The larger research project on which this article is based was grounded in several related theoretical foundations which frame the present analysis. First, the approach from design through analysis is consistent with a 'new sociologies of childhood' perspective, which positions children as expert informants about their own lives, seeks out the self-reported experiences of children, and attends to their social contexts (Hogan 2005; Boocock & Scott, 2005; Rosenbury, 2015). Unfortunately, the present paper includes very little 'voice of the child' as it seeks to answer a macro-level question about the reasons for invisibility of children in public policy. The self-reported experiences of children themselves was rarely directly relevant, as child and youth participants had no awareness of their policy-level visibility.

A second conceptual underpinning was a critical criminology perspective, which takes a constructivist and politicized view of the processes of criminalization, and pays particular attention to the rise of punitivism and managerialism in the criminal justice policy of neoliberal states (Hannah-Moffat 2015; Garland, 2001; Wacquant, 2009).

Findings

1. Lack of data.

There is a growing base of scholarly work from outside of Canada which suggests that children of prisoners face an increased risk of a variety of negative outcomes. Research, including systematic reviews, have found that parental incarceration is associated with increased rates of behavioural concerns, a variety of physical health issues, contact with child welfare systems and later criminal justice system involvement (Murray, Farrington, Sekol & Olsen, 2009; Wildeman, Goldman, & Turney, 2018). Parental incarceration has been added to the list of Adverse

Childhood Experiences (ACEs) which link childhood traumas to a variety of adult health concerns (Felitti 2017).

However, a frequently repeated phrase in my key informant interviews, and particularly in my broader attempts to seek participants through various service agencies, was: “I’ve never thought about this before.” Continually, people who worked with at-risk children, marginalized families, prisoners, and other criminalized people (including staff at child welfare agencies), reported not having any knowledge or experience with parental incarceration. One prisoner advocate reported that she has rarely discussed issues of parental incarceration because other issues related to prisoners’ crises have always taken precedence:

I don’t think that’s indicative of not being a priority but I think there are people trapped in systems that were just like “I need help to get out of this system.” And so talking about the children is not necessarily a priority now.

[Key informant 2]

Part of this neglect may be due to the marked lack research about Canadian children of prisoners. While parental incarceration has been the subject of a growing scholarly attention and research around the world in the last two decades, Canada has lagged behind in this regard; academic research into parental incarceration has been virtually non-existent in this country (McCormick, Millar, & Paddock, 2014), with the few existing grey literature reports being the only source of information on this topic in this country (Bayes, 2002; Cunningham & Baker, 2003; Withers & Folsom, 2007; McCormick et al. 2014).

One reason for this gap is clearly the lack of available data. In Canada, as in many countries, information is not routinely collected about the parental status of prisoners. I found that neither CSC nor the remand or sentenced sections of any provincial prison service consistently collect quantitative data about children or parenting status on admission. I queried a key informant with a prominent role in the federal criminal justice system:

Interviewer: I was shocked to learn that the intake assessment at the

assessment units doesn't include quantifiable data collecting whether an offender has children, who is caring for them and where they live

Key Informant: Yeah

I: Have there ever been such questions? Why...

KI: No, I don't know, that's a really good point... We don't know. If you were to ask me the question how many have children and age ranges and what happens to them, and are they involved in child welfare or Children's Aids Societies... I could not tell you.

[Key Informant 1]

While qualitative information about parenting status may be included consistently or on an ad hoc basis in the case notes of prisoners' files, such information is not rendered quantitative, comparable and available. The same respondent noted that family context *is* discussed during interviews with prisoners:

[In case files] all that information is captured. It's all known, it's all disclosed, people do eventually ask. It's just not necessarily part of the intake and assessment process and documented in a way that is retrievable and quantifiable.

[Key Informant 1]

However, being irretrievable and unquantifiable renders this information unusable to researchers and policy makers. Nothing is known with any confidence about the characteristics of Canadian children who have a parent in prison, such as age, race, who cares for them, or their relationship with the incarcerated parent (Bayes, 2002; Cunningham & Baker, 2003).

This lack of data does not reflect a lack of children. Data from a survey a single federal male prison from 2007 found that 53% of prisoners were parents to an average of 2.1 children (Withers & Folsom, 2007). I estimate (crudely) that there are around 44,700 children in Canada with a parent in prison on any given day². In the

² On an average day, there are just over 40,000 adults in custody, federally and provincially, in Canada (Reitano 2016). If a number of problematic assumptions are made, including that the Withers and Folsom (2007) findings around prisoner fertility are valid, that incarcerated women have the same fertility rates as men (though this does not appear to be the case (Barrett, Allenby & Taylor, 2012)), that provincially prisoners have similar fertility to federal prisoners, then it can be

United States, it is estimated that there are 1.7 million children of prisoners, who account for 2.3% of all American children (Glaze & Maraschuk, 2008).

The lack of data about Canadian parental incarceration conceals what is likely to be a highly racialized experience. In the US, parental incarceration is disproportionately experienced by racialized groups who are overrepresented in penal populations (Tonry, 1997; Glaze & Maraschuk, 2008). In Canada, Indigenous and Black people are likewise overrepresented (Malakieh 2018; Juristat 2015; Statistics Canada 2007).

Some marginalizing factors may be exaggerated in children of prisoners. Wildeman (2009) found Black American children born in 1990 had a one in four chance of having had a parent in prison by age 14 compared to one in 25 white children, and for children whose parent had not completed high school, the rate was an astonishing 51%. Prisoners are disproportionately affected by high rates of poverty, illiteracy, low educational attainment, and mental health concerns compared with the general population (Sinha, 2009; Glaze et Maruschak, 2008; Boe, 1998). It appears that children of prisoners face a variety of related family risk factors such as poverty, parental unemployment and parental substance abuse (Wildeman, Goldman, & Turney, 2018; Murray & Farrington, 2005; Social Exclusion Unit 2002).

2. Absence from prison policy.

Despite the weekly presence of children inside the visiting room of every prison in the country, prisons show little interest in seeking to understand or address their particular needs or risks, and appear to recognize no responsibility for the experiences they have with the prison, aside from their basic physical safety. In the formal policies of CSC ('Commissioner's Directives' (CDs)), the explicit mention of prisoners' children is extremely limited and frame them virtually exclusively in terms

roughly estimated that there are around 21,300 parents in Canadian custody and these parents have 44,700 children. This figure is significantly lower than the only other published estimate, Withers and Folsom's (2007) report which suggests that there are around 350,000 Canadian children impacted by parental incarceration annually. However, the latter number is relies not on the total Canadian incarceration rate at the time (38,000) but the annual rate of admission to custody (358,350), which represents a very high number of duplicated subjects.

of risk. There are five mentions of children in the CD concerning prisoner visits, the main point of interface between many prisoners' children and the institution, and they consist of defining them and the approval process.

Absent is any mention of the goals of the visiting process are for children, any special rights or needs that children have in respect of visits, or any special accommodations, equipment or recommendations to address children's safety, outcomes or well-being. The "Child Safety Waiver" form referred to in the visiting CD is a contract to be signed by the child's outside caregiver which releases CSC "from any responsibility it may have in allowing the said child/children to accompany me on a visit" (CSC, n.d.).

An important exception is the policy related to the CSC Mother-Child program, which allows for women prisoners to reside with their children inside the institution (LaBoucane-Benson & Van Dieten, M. 2013). The stated objective is "To provide a supportive environment that fosters and promotes stability and continuity for the mother-child relationship" and it is noted as a policy principle that "The best interests of the child shall be the preeminent consideration in all decisions relating to participation in the Mother-Child Program" (CSC, 2016).

One respondent explained the inception of the Canadian Mother-Child program:

[One warden] was very clever, I mean she-- basically she had women [...] who were in custody and their kids would come to the fence to see their moms, they would walk sometimes for days to see them. ... There was a woman who was pregnant and she decided to, you know, instead of announcing it or even requesting [removal of the child], she got all the women to, you know, they made booties and bonnets... It became such a positive thing that they didn't kick the baby out. That was the first Mother Child program.

[Key Informant 4]

The program allows for children under 4 years old to reside full time with their mothers, and 5-6 years old children on a part time basis with regular weekend visits. However, this program is extremely difficult to access and thus consistently "hardly used" since its 2001 inception, and even less so in recent years; the part-time

program in particular has been “rarely used” at any point (Brennan 2014). There are around 900 women incarcerated in federal institutions (Juristat 2015) and it is likely that three quarters of these women have children under 18 years (Barrett, Allenby & Taylor, 2012), yet the program has been used by an average of 2.9 mothers annually since 2001 (Brennan 2014.).

Brennan’s (2014) review of the program found that several factors make the program inaccessible, many related to the recent punitive turn in federal corrections.

Amendments to the eligibility program in 2008 excluded women who had been convicted of certain crimes and children aged 7-12, and required child welfare agency support. Researchers note:

While CSC has a structure in place to allow women to build, maintain and strengthen their relationships with their children, the institutional rules are so restrictive, that virtually no offender has qualified for the institutional program.

(LaBoucane-Benson & Van Dieten, 2013)

In summary, the Mother-Child program appears to exist mainly ‘on paper’ as children are clearly no more present within institutions either physically or figuratively because of it.

In reviewing publicly-available CSC documentation, I located the following additional references to children of prisoners, in total:

- The Child Link program which provides video visitation for women prisoners in certain institutions. This program launched as a pilot in 2012, with one prisoner holding video visits with her son for 5 months in 2013 (CSC 2013). However, the program has expanded to include additional women’s prisons across the country since 2014 and is now described as a non-residential component of the CSC Mother-Child program (CSC 2016).
- Reference to the family orientation program, a session that was offered to new federal prisoners, run by the NGO Canadian Families and Corrections Network (CFCN) and providing information and documents around contact with families. However, this program lost CSC funding in 2013 and is no longer offered.
- Information on the CSC website intended for prisoners’ families about some

- practical aspects of visits, including a web tour, security information and basic contact information, and a CFCN document with information about visiting
- A 1995 edition of a now-defunct CSC research summary publication devoted to families and corrections (Carpentier, 1995)

Occasional references to prisoners as parents is found in CSC research, particularly related to women prisoners, and a reference to parenting skills in descriptions of the programming that prisoners can be offered. In response to my email query about the provision of parenting programs to federal prisoners, I received the following reply from a manager of the CSC Reintegration Services Division:

CSC is legally mandated to provide programs and services that address offenders' criminal behaviour and contribute to their successful transition into the community. As a result, the Service offers correctional programs that are based on research of "what works", targeting factors that have been proven to reduce future re-offending.

Since parenting programs do not directly target such factors³, these types of programs are classified as social programs within CSC. Unlike correctional programs, social programs are not offered on a national basis and are subject to institutional approval, feasibility, and suitability.

[...] It should also be noted that each federal Women Offender Institution does ensure a parenting skills program is offered.

[Personal communication, 11 August 2015; emphasis added]

A request for information on the actual provision of the Parenting Skills Training Program from CSC resulted in my being sent a list of all parenting skills program completions by CSC offenders between 2010-2014. Nine institutions (of CSC's 58

³ I disagree with this assessment. There is growing body of research showing the benefits of visits by family members to prisoners, including a lower likelihood of re-offending after release (Bales & Mears, 2008; Derkzen, Gobeil, & Gileno, 2009)

institutions) had any parenting program completions, and the number of completions per year ranged from 36-111 (Personal communication, 2015). There are approximately 15,000 people in federal custody, meaning that 0.7% of prisoners completed the parenting program in its busiest year since 2010 (Juristat 2015). The information provided showed that the program is primarily taken up by female prisoners; they accounted for a third or more of participants, and account for 6% of federal prisoners (Juristat 2015).

Provincial prison policy would appear to attend even less to children of prisoners. Ontario provincial prison service documents contained almost no mention prisoners' children. I found virtually no reference in any publicly-available document published by the Ontario prison service to 'child', 'parent' or 'family,' with two exceptions. The first is the 'Visiting' section of the website which states:

Visits by minors

- The decision to grant visits to children under the age of 16 years is at the superintendent's discretion. In making the decision, each application is considered individually and based on its own merits.
- All children under the age of 16 years are expected to conform to the visiting routines and practices of the institution. Children who do not conform or who disrupt the visits of other persons will be required to leave the facility.

[MCSCS 2016]

The second exception is the "Information Guide for Adult Institutions" for prisoners available online (MCSCS 2018). In this document, the words 'parent' and "child " do not appear. There are several references to 'family,' and these refer to adult family members acting in a support capacity to the prisoner, for example assisting in meeting bail conditions, bringing clothing to the prison, paying fines on the prisoner's behalf, paying for newspaper subscriptions and verifying information to and supporting the parole process. The denial of any responsibility to prisoner's families in this document is stark. Advice to prisoners states:

It is up to you to tell your family and friends where you are. It is also up to you to deal with any *problems* you have in the community (e.g., debts or *family matters*, etc.).

(MCSCS 2018; emphasis added)

The recent independent review of Ontario provincial corrections noted the following:

[In Ontario] the vast majority of visits between inmates and their loved ones in Ontario are limited to 20- or 40-minute sessions during which inmates and visitors are physically separated by a barrier (commonly referred to as "closed visits"). There are limited open areas, no apparatus to facilitate outdoor play for children, no private family visiting houses, and no mother-child or mother-baby programs. The momentum in Ontario in recent years has been to decrease in-person visiting: Ontario's two newest institutions have almost completely replaced closed visits with remote video visitation. Such policies not only constitute unnecessary restrictions on individual rights, they are also contrary to good correctional practice.

[Sapers 2017]

Disappointingly, recent legislation passed in Ontario, which was informed by this review and explicitly intended to modernize the provincial correctional system (*Correctional Services Transformation Act, 2018*), adds little recognition of the need to recognize and support prisoners' children. While the Act does recognize "the necessity of family and community connections and supports for inmates" in the Preamble, and the Act includes a requirement that access to a prisoner's family be included as a factor in decision making about placement, the words 'child' and 'parent' appear nowhere in the legislation⁴ and no mention of visiting conditions or the needs of children of prisoners are included. Intriguingly, the following promising

⁴ Aside from references to the Child and Family Services Act, which are administrative in nature

provision is included in the Act: “(s.83) The Minister may establish programs to enhance family support for inmates and contact with family for inmates.”

It is ironic that provincial prison policy appears to be even less attuned than federal policy to the needs of children of prisoners, as practical parenting issues would seem to be much *more* pressing for remand prisoners, immediately after their arrest. Newly remanded prisoners may need to arrange alternate caregiving arrangements for children for whom the prisoner was a primary caregiver, arrange for funds to be directed to children’s caregiver, and attend to a child’s initial emotions around a parent’s arrest and incarceration.

Limited reference was also found to supporting prisoners to parent from prison, aside from the modest provision of the CSC Parenting Skills Training noted above. For example, I found no reference to prisoners having access to additional visits or phone calls with their children, nor programs that practically support parenting such as parent coaching, structured visitation, or video visiting. In comparison, there are programs in many US states that incorporate such elements (e.g. ASPE 2010). There are few Canadian services focused on meeting the needs of children of prisoners. In comparison, prison services in countries like UK and some US jurisdictions provide or work with charities to provide programs such as family visitor centres outside the prison (such as UK-based PACT 2016), programs that facilitate child-focused contact and activities during visits (such as ASPE 2010), resources created specifically to inform and support children of prisoners (such as the Scottish agency Families Outside 2016). Storybook programs are run as broadly-available and funded service to prisoners in UK and many other countries. In contrast, one respondent from the present study described a telling experience:

I had a, to supervise [prison] visiting and there were a number of tables and then the families would come in, they’d have their little goodies and little gifts for their kids and their little toys over there. [...] So you had a very diverse, you know, parents coming through but you could see all of them not really knowing their roles. They really didn’t know, the parents, they didn’t really know, they didn’t really understand their roles. They didn’t know how to [parent], “how do I?” So, I said to my supervisor, and I said, “Can I run a

mother's group or a parenting group?" And he goes "It's not in our mandate." And I said, "so how can that not be in our mandate?"... And I said, "tell me something," I said, "when little Joey leaves," I said, "wouldn't it be a better outcome and help him by knowing that we have at least done that much to help make the home a better place to come home to?"

[Key informant 13]

That said, there are a few small programs inside prisons to support parenting, which tended to be run by NGOs: The limited provision of the Mother-Child and Child Link programs mentioned above; A storybook program run by the Elizabeth Fry Society in three Vancouver-area prisons (Elizabeth Fry Society of Greater Vancouver, n.d.), and another storybook program run by local library volunteers in one women's prison in Edmonton, Alberta (Greater Edmonton Library Association, 2015); a worker from the small NGO CFCN spoken of fondly by several child participants in this study, who offers games and other activities to children during some visits in Kingston-area Institutions; ; a new fathering program to be launched in 5 CSC institutions in 2018 by CFCN (CFCN 2017); and a program for prisoners inside one Quebec provincial women's prison which provides visiting support for children's visits (Continuité Famille auprès des Détenues, 2018).

A senior federal government official described the extent to which Canada fails to meet higher standards of service provision to prisoners' families:

Certainly there are other countries that have shown that you can support families in a much more fulsome manner. There are some countries that have schools that are run on behalf of or as part of the correctional system, where family is seen as a central part of re-integration... There are some countries where things like healthcare services are even provided to immediate family members because what's the point, particularly if you're dealing with mental health services, if there's a dysfunctional family environment and you've got to deal with that at the same time? So there's countries that as a matter of policy and practice have gone much further than Canada has.

[Key informant 2]

Finally, I located no formal or informal reference to the rights of prisoners' children, nor of prison services' formal responsibilities to them. While prisoners' children are profoundly affected by CSC policy and practice, they regularly enter CSC property when they visit, and they are subject to CSC rules in all of their interactions with their parents, they are not framed as *clients* of CSC. In the Ontario provincial prison system, children and partners appear to be constructed as incidental, social concerns, an annoyance or disruption to the prison, and outside the responsibility of the prison system.

Most [Ontario] institutions have put in place very restrictive limits on the nature, frequency, and duration of visits. In many cases, a significant administrative burden is placed upon family members. Institutional staff also complained about the administrative requirements of supporting visits and the "disruptive" nature of accommodating and supervising visits

[Sapers 2017]

Families often exist in formal policy primarily as potential carriers of contraband, over any other attribute or potential. One respondent decried the extensive, stigmatizing security processes and moreover the penal system's privileging of their liability and convenience over all else:

Why are families assumed to be a security risk? Other than the administrative convenience of the system itself. Doesn't somebody actually have to do something on the basis of evidence to treat you as a class. [...] It's easier for [staff] to block everyone than it is to start find, to just only block only those who really are a problem. [...] But really when you look at the system, all the presumption is 'if you're not one of us (being staff), you're dangerous.' And they do the same with agencies, and volunteers and everything, but I think that's particularly a problem with children.

[Key Informant 5]

This is in spite of the myriad ways in which the lives of children of prisoners may be deeply affected by the decisions and policies of the prison system, and in which they are physically present in the spaces of the prison as visitors. In the Foucauldian sense, these children are constituted as *subjects* of the penal system as their lives are controlled, regulated and managed by the system through the mechanisms visits and other encounters (McKee 2009), even if this regulation is not recognized.

This would seem to differ markedly from other state institutions that family members of the direct client may visit, such as hospitals, which rather see family members as indirect or secondary clients, and instrumentally valuable for the information and support they can provide to the institution's primary client (the patient). For example, the accreditor of Canadian hospitals emphasizes "an approach that fosters respectful, compassionate, culturally appropriate, and competent care that is responsive to the needs, values, beliefs, and preferences of clients and their family members. It supports mutually beneficial partnerships between clients [patients], families, and health care service providers" (Accreditation Canada 2015).

The contrast to the way prisons construct the needs, roles and rights of prisoners' families is striking, and there are a lack of meaningful accountability mechanisms and formal rights systems. Families can make complaints to the federal Correctional Investigator about the treatment of a prisoner by CSC, but they cannot have their own treatment or rights investigated. The Investigator at the time of this study described his office's mandate, set out in the Corrections and Conditional Release Act (CCRA), as follows:

We always cast it in the light of the inmate... So if the young person or the family member makes a complaint to us about the way they were treated, we would respond to that, as I said, but our response would be in the context of 'John has been denied a visit from his son,' not *'the son has been denied access to John.'*

[H. Sapers, personal communication, July 10, 2013; emphasis added]

Similarly, in *Hunter v Canada* [1997] 3 F.C. 936, the Federal Court recognised both that

family contact is a vital constitutional right of prisoners and serves the rehabilitative goals of the prison, and agreed that the maintenance by inmates of their family relationships and friendships in the community was firmly linked with individual self-fulfillment and human flourishing, the values that underlie freedom of expression. However families of prisoners would not seem to hold a corresponding right to family relationships with prisoners. In this way, families of prisoners are granted no agency within criminal justice systems and framed only as objects or functions of the prisoner.

The lack of recognition of any particular rights of children of prisoners is also in conflict with international human rights instruments which speak to this issue. The UN Convention on the Rights of the Child, to which Canada is a signatory, states that children's best interests must be considered by States in "all actions" that concern them (Article 3) and that children must have the right to express their views in decision making processes that affect them (Article 12), which have been interpreted by the Committee on the Rights of the Child to include the right of children of prisoners to have their best interests considered in decisions made about their incarcerated parents' placement (Donson & Parkes, 2018). Further, the Convention protects the right of children to have direct and frequent contact with parents from whom they are separated (Article 9) and the right to have their family ties respected (Article 8). However, I found no evidence of Canada exploring, preserving or being held to account around these rights.

In addition to being having no meaningful presence in prison policy and programming, children of prisoners are also absent from the broader social policy approach to children and families. Despite this group of children is associated with higher rates of poverty and a number of health, mental health and social risks (Wildeman, Goldman, & Turney, 2018), and likely number in the tens of thousands, they simply do not exist in policy statements or government rhetoric at the provincial or federal level and I found no evidence that children of prisoners have ever been the subject of any significant or consistent attention nor service provision in Canada.

Discussion: Understanding the lack of recognition and policy

In this section, I explore possible reasons for this invisibility of children of prisoners and propose that it is neither accidental nor innocuous. I will echo Harter, Berquist, Scott Titsworth, Novak, & Brokaw (2005) who argue the following in relation to their comparably invisible subjects, homeless youth: “Structures both enable and constrain; thus the disappearance of many youth without homes in mainstream institutional discourses simultaneously enhances and diminishes the power of various stakeholders” (p. 308). I will argue that the invisibility of children of prisoners is a function of the roles and positions they occupy, and serves a variety of purposes for those in power, including reducing accountability and avoiding challenges to penal punitivism.

1. Children as instruments.

In several key informant interviews I found I needed to re-focus the conversation back to children of prisoners when participants had steered away, conflating the interests and needs of children of prisoners with prisoners themselves or their partners; children seemed to be overshadowing by the needs and interests of their parents. Purdie-Vaughns and Eibach’s (2008)’s concept of intersectional invisibility may provide insight into this effect. They argue that subordinate members of marginalized groups (which children would be in the group of those who are subject to incarceration policies) become “acutely socially invisible.” For example, here a key informant turns the focus back to the prisoner:

Interviewer: If there were kind of broader government policy in this area, or something specific to the rights of or the role of families and children of prisoners, what should the aims and goals of that be?

Key Informant: Well, I think, for me, you know, it’s always about what is going to best facilitate that individual, so in this case the offender from being able to integrate back into his [community].

[Key Informant 2]

Children’s interests may fail to be centered even in services that explicitly seek to

support them. For example, one key informant who works with families of prisoners reported an approach to prison visits that privileges the prisoner's and the prison service's interests over the child's:

The other thing is, you know I'll— if we can make it an enjoyable experience, they're more likely to want to go again. The whole thing was, 'let's try to figure out how to make this an enjoyable experience and that'll promote ongoing communication of contact.' And the benefits are, you know. And that's what I said to CSC: the benefit, it, it's a safer place because [prisoners are] not allowed a visit if you're acting up. So, it's a benefit for CSC, the program. Obviously with maintaining good family contact, it's better for reintegration, so it's good for the inmate, you know.

[Key informant 6]

Without wishing to imply that this participant's approach is not grounded in a concern about children's well-being (and indeed he may have simply been describing an effective way to promote this program to CSC partners), this statement is grounded in the assumptions that visits are always and necessarily beneficial to children, and that prisoners' and children's interests and wishes coincide. Poehlmann's (2005) research into negative outcomes associated with children visiting prisons in some situations suggests that these assumptions are problematic.

Another common assumption is that a prisoners' needs for reintegration success is a goal for which a child's visit can and ought to be a means. The conceptual framework employed in this article demands critique of an approach which values children only in their relation or utility to adults. As Codd (2007: 258) argues: "it is more appropriate to support families for their own sake, rather than as instruments of penal policy."

2. Lack of Accountability.

I have argued elsewhere that the lack of available information about Canadian children of prisoners serves a purpose so useful that it can be seen as strategic:

without any quantitative data about them, these children do not 'exist,' and the prison therefore has no responsibilities to or for them (Knudsen 2018). A senior official responded in an interesting manner to my questions about the lack of data collection by CSC about children of its prisoners:

Let me be careful but it serves no purpose to know. [...] Now of course it serves a purpose, It's tremendously important from a policy perspective and from a family health perspective and integration and all that stuff. But at this point, what would, why would CSC ask? 'Where are your three kids?' 'Who is feeding them tonight?' That may become relevant for day parole consideration or maybe even for assessing for a family visit. But [if] you're doing a pen[itentiary] placement?

[Key Informant 1]

This official treads carefully but suggests that the lack of data collection is not innocuous; if information about children of prisoners existed, the prison service might be required to respond to this information and face additional responsibilities. His statement that "it serves no purpose" for the prison service to know may as well be in inverted commas, as he quickly notes that the data would, of course, serve a policy purpose; rather it serves no *desired* purpose for the prison service. If children of prisoners 'existed,' prisons might bear some responsibility for the quality of their experiences with the prisons, for providing them programming to reduce their barriers to having relationships with their prisoner parent, or even to improve their health and social outcomes, all of which would result in higher costs and liabilities to prisons.

3. Political narratives.

Finally, I suggest that the invisibility of children of prisoners from penal policy or broader social policy discussions serves to support a particular ideological perspective. Around the same time that children of prisoners were being 'discovered' academically, Canada and other Western states had been undergoing a dramatic shift in the approach to and role of their criminal justice system. Prison, policing and sentencing approaches became politicized across the West in the late

20th century, creating large increases in prison populations, and penal approaches took a punitive turn (Garland 2001; Newburn 2003). That this policy shift was primarily intended to support ideological narratives, and not to meet goals of public safety, is clear from the lack of support for this approach by the criminological literature and the subsequent dismantling of many of these changes due to their unconstitutionality (Fine 2018; Newburn 2003). The political approach to criminal justice continues to be based on rigid neoliberal binaries in Western democracies including Canada: soft versus tough on crime; rights of victims as inversely proportional to rights of prisoners; and good guys versus bad guys.

Within these strict binaries, the presence of children (as well as the parenting practices of prisoners) is disruptive (Knudsen, 2018). Being loved and needed by a child suggest that prisoners have value, have a life beyond the prison, and are not wholly deviant. Indeed, parenting is arguably a most human of roles and activities. One respondent explained their interpretation of the previous government's approach:

This government isn't going to punish people for what they do, this government punishes people for what they are. That's why you tend to increase mandatory minimum without rationale and also effectively abolish pardons at the same time. I mean if you really thought that harsher penalties will change people why would you want to abolish pardons[...]

[The government says] "You're [criminals are] different, you are substantially different from the rest of us and those who are touched by you are the same." So whether you abolish pardons or you abolish visits, it's the same thing; "it's what you are. Once a criminal always a criminal. You're a bad seed." And that's a fundamental shift.

[Key Informant 5]

Another respondent explains that the resolution to this discord is to remove the attribute 'parent' from prisoners:

I think right now it's seen as anyone who is in a prison doesn't deserve to be a parent. That they're somehow bad ... [the political narrative is] that these are

people not deserving of being parents. We are more willing to spend you know billions of dollars putting kids in care than promoting those relationships or encouraging people.

[Key Informant 4]

This 'de-parenting' of prisoners and erasing of their children from policy must be also understood in the context of racism and colonialism in Canada. Indigenous peoples have had their parenting pathologized and their children forcibly removed in subsequent waves of State policy from the residential school systems, to the Sixties Scoop, to the current overrepresentation of Indigenous children in child welfare care (Truth and Reconciliation Canada 2015). Critical race scholars have pointed to the pathologizing of Black parenting by academics, social policy and service providers (Hill 2003). If the state has a history of pathologizing the parenting practices and roles of Indigenous and racialized peoples, then the invisibility of parenting in a prison system that houses disproportionate rates of Indigenous and racialized people is not inconsistent (Malakieh 2018; Juristat 2015).

Conclusion and recommendations

This article has explored children of prisoners' conspicuous absence from prison policy in Canada. This absence is startling given the high rates of parental incarceration, the range of associated negative outcomes to their health and well-being, and the growing policy and scholarly attention to this issue in other countries. I propose the following preliminary ameliorating recommendations:

1. Every prisoner admission process in Canada should include (non-identifying) questions about how many children the prisoner has, their erstwhile caregiving role, and the type of caregiver who is caring for those children.
2. Canadian prison systems must be directed to recognize families of prisoners as having rights, including the right of children to have their voice heard in the systems that affect them, including prison visiting and contact process.

3. Governmental policy attention and funding should be directed to the specific and independent needs of children of prisoners.

Contrary to the title of this article, I have argued herein that the invisibility of children of prisoners in Canada is far from curious; it serves important purposes for the penal system including allowing a lack of responsibility for children who visit and are otherwise affected by prison systems, and also preventing the discord that children pose to the punitive ideologies that underlie our criminal justice system. However, the increasing academic attention to the topic of familial incarceration both internationally will hopefully shine light onto this group of children, justify further research and motivate penal systems to consider the well-being of their child subjects.

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