WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND URBAN AFFAIRS

TESTIMONY OF THE WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND URBAN AFFAIRS

COUNCIL OF THE DISTRICT OF COLUMBIA COMMITTEE ON EDUCATION

PUBLIC HEARING ON B21-0319 ASSESSMENT OF CHILDREN OF INCARCERATED PARENTS ACT NOVEMBER 12, 2015

Good afternoon. Thank you for the opportunity to testify regarding the proposed legislation the committee is considering today. We believe that B21-0319, the Assessment of Children of Incarcerated Parents Act, is an excellent idea, especially in the District of Columbia, which has one of the highest incarceration rates in the country.

INTRODUCTION: THE WASHINGTON LAWYERS' COMMITTEE

Since its inception almost 50 years ago, the Washington Lawyers' Committee for Civil Rights and Urban Affairs has worked on a broad range of civil rights and poverty related issues that impact federal, state, and local civil rights laws. Our interest in this matter stems from our work in several specific Lawyers' Committee projects, including the DC Prisoners' Rights Project, in which we represent and advocate for DC prisoners, and our Public Education Project, which includes our DC Public School Partnership Program and Public Education Reform Program.

B12-0319 IS SMART PUBLIC POLICY

For every 100,000 citizens, the United States incarcerates 716 people on average, which is more than any other country. Louisiana has the highest level of incarceration in the United States and the world, with a rate of 1341 per 100,000 people.[1] The District of Columbia's rate of incarceration is second, incarcerating 1314 per 100,000 people.[2]

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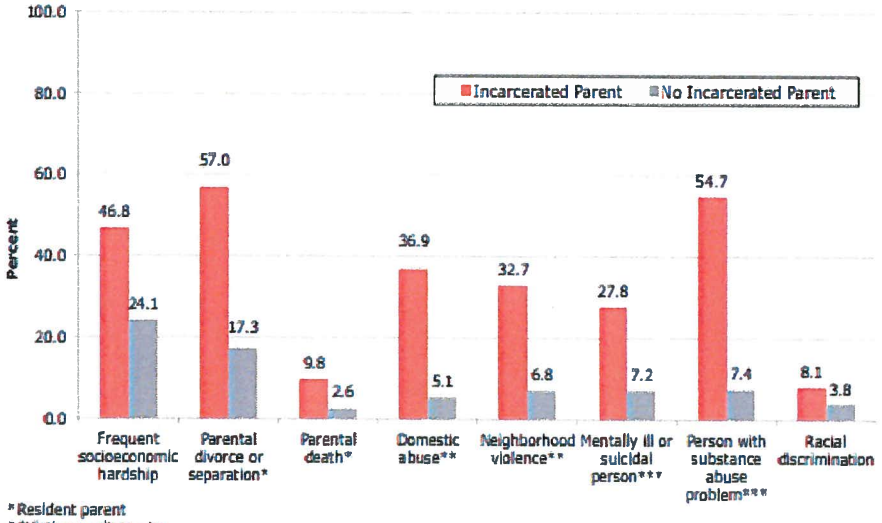
[1] *States of Incarceration: The Global Context*, PrisonPolicy.Org, http://www.prisonpolicy.org/global/ (last accessed Nov. 3, 2015).

[2] District of Columbia incarceration rate derived from the number of people in local jails as well as DC prisoners located at various Bureau of Prison facilities.

poverty typically associated with having a family member incarcerated only further perpetuates the cycle of incarceration.[12]

We have appended to our testimony a recent report by Child Trends, *Parents Behind Bars: What Happens to Their Children?*[13] The researchers used data from the National Survey of Children's Health to explore child outcomes associated with parental incarceration at any point. We copy one chart here, because it starkly demonstrates the association of adverse childhood experiences (ACES) with parental incarceration.[14] We have also appended an article that *The Atlantic* published yesterday, summarizing this report.[15]

Figure 2. Parental incarceration is associated with numerous other adverse childhood experiences, 2011-12



*Resident parent
**Victim or witness to
***Residence with
Source: Child Trends' analysis of the National Survey of Children's Health.

[12] deVuono-powell, *supra* note 2, at 7.

[13] David Murphy and Mae Cooper, *Parents Behind Bars: What Happens to Their Children?* Child Trends Publication 2015-42 (Oct. 2015), http://www.childtrends.org/?publications=parents-behind-bars-what-happens-to-their-children (last accessed Nov. 12, 2015).

[14] *Id.*, p. 6.

[15] Alia Wong, *How Parental Incarceration Affects a Child's Education*, The Atlantic (Nov. 11, 2015), http://www.theatlantic.com/education/archive/2015/11/how-parental-incarceration-affects-a-childs-education/414720/ (last accessed Nov. 12, 2015).

The Atlantic

EDUCATION

How Parental Incarceration Affects a Child's Education

"Through it all, children suffer."

An inmate looks at his daughter during a special Father's Day visit as part of the "Get On The Bus" program at California Men's Colony in San Luis Obispo in May 2015.

Mario Anzuoni / Reuters

ALIA WONG

NOV 11, 2015

This past summer, *The Atlantic*'s Sarah Yager wrote about the rising popularity of prison nurseries as a means of saving costs, enhancing morale,

issues they were having in school. Meanwhile, "school engagement" was rated on a scale from zero to three, with children receiving a single point for usually or always meeting each of three conditions: demonstrating an interest and curiosity in learning new things; caring about doing well in school; and completing all required homework.

The researchers reason that the social stigmas associated with having a parent who is, or has been, in prison might help explain these educational challenges. "Having an imprisoned parent is an example of a loss that is not socially approved or (often) supported, which may compound children's grief and pain, leading to emotional difficulties and problem behaviors." A 2013 paper out of the University of Minnesota's Children, Youth & Family Consortium also suggested that the loss of financial support resulting from parental incarceration can undermine the "family's housing stability, the child's living arrangement, and subsequently the child's school stability." Children with a parent in prison tend to struggle with chronic absenteeism, too.

have a whole bunch of bad experiences growing up, you set up your brain in such a way that it's your expectation that that's what life is about."

Parental incarceration often acts as one such ACE because it causes a confusing, troubling loss of an attachment figure and involves ongoing contact with law enforcement, the corrections system, and child-welfare officials. But what Murphey and Cooper find is that having a parent in prison is likely to coincide with even more traumatic experiences: Children who've undergone parental incarceration suffer from 2.7 ACEs on average, according to their analysis of of the National Survey of Children's Health, which lists 8 ACEs total. Children who haven't experienced parental incarceration suffered from 0.7 ACEs on average.

Ultimately, the researchers conclude that "the harm associated with parental incarceration can compound the already difficult circumstances of vulnerable children," a reality that's particularly evident in their schooling. Yet, as the University of Minnesota paper shows, education policy has done little to address these kids' particular needs. And in this age of mass incarceration, perhaps it should. In his recent cover story for *The Atlantic* about the topic, Ta-Nehisi Coates described mass incarceration as a vicious cycle that victimizes entire families, holding them "in a kind of orbit, on the outskirts, by the relentless gravity of the carceral state."

"Through it all," Coates wrote, "children suffer."

ABOUT THE AUTHOR

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Twitter

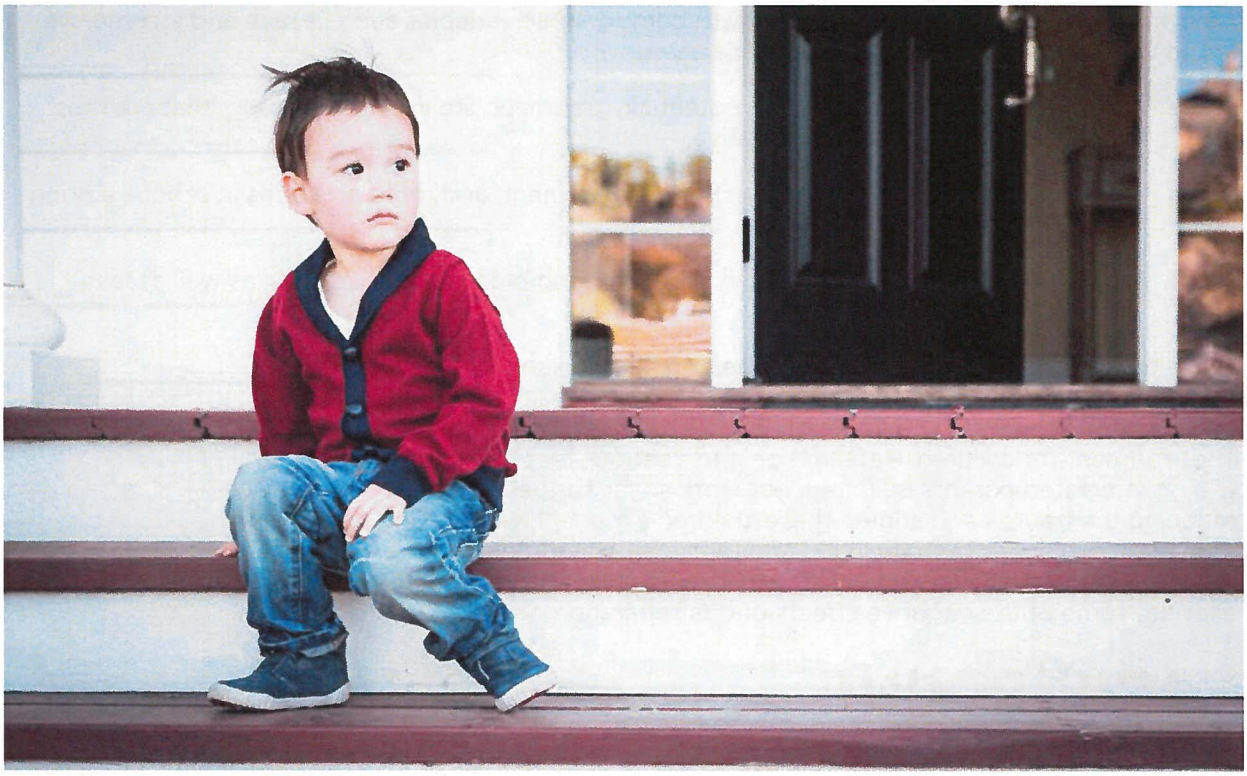
PARENTS BEHIND BARS

What Happens to Their Children?

David Murphey and P. Mae Cooper

October 2015

Child TRENDS
childtrends.org



OVERVIEW

Children do not often figure in discussions of incarceration, but new research finds *more than five million U.S. children* have had at least one parent in prison at one time or another—about three times higher than earlier estimates that included only children with a parent currently incarcerated.

This report uses the National Survey of Children's Health to examine both the prevalence of parental incarceration and child outcomes associated with it.

KEY FINDINGS AND IMPLICATIONS

Based on our analyses, we found that more than five million children, representing seven percent of all U.S. children, have ever had a parent who lived with them go to jail or prison. This proportion is higher among black, poor, and rural children. Our figure of more than five million is almost certainly an underestimate, since it does not include children with a non-residential parent who was incarcerated.

More than five million U.S. children have had a parent in prison. (This is almost certainly an underestimate.)

This is important new information. In 2007, the most recent point-in-time estimate, 1.7 million children, or just over 2 percent, had a parent (including non-residential parents) *currently* in prison.

Previous research has found connections between parental incarceration and childhood health problems, behavior problems, and grade retention. It has also been linked to poor mental and physical health in adulthood.

including asthma, depression, and anxiety;[9] acting-out behavior;[10] grade retention;[11] stigma;[12] and, in adulthood, an increased likelihood of poor mental or physical health.[13,b]

In some cases there can be positive effects when a parent is incarcerated, namely, when the parent is abusive or otherwise poses a danger to the child (through substance abuse, for example).[14] Nonetheless, most research finds negative outcomes associated with incarceration.[15]

It is difficult to identify the unique effects of parental incarceration on children, as its occurrence tends to be associated with numerous other risk factors. As an example, people in poor communities are more likely to be incarcerated. So, if a child with an incarcerated parent has problems in school (for example), it can be challenging to disentangle the effects of parental incarceration from those of other risk factors, such as experiencing extreme poverty. Complicating matters further, parental incarceration can also exacerbate these associated risk factors, through loss of income, for example.[16]

There are few studies that adequately control for these factors. Most take advantage of data sets where children are followed for multiple years, a design that allows for comparison between children's characteristics before and after parental incarceration.[17] Relying on cross-sectional data,[c] as we do here, especially when the timing of parental incarceration is not specified, limits our ability to infer cause and effect. In other words, particular child outcomes may have been present before incarceration, or may have been related to the risk factors that led to incarceration. However, by controlling for confounding factors and analyzing the data within specific age blocks, we can obtain a more nuanced picture of how parental incarceration and child outcomes are associated at several developmental periods.

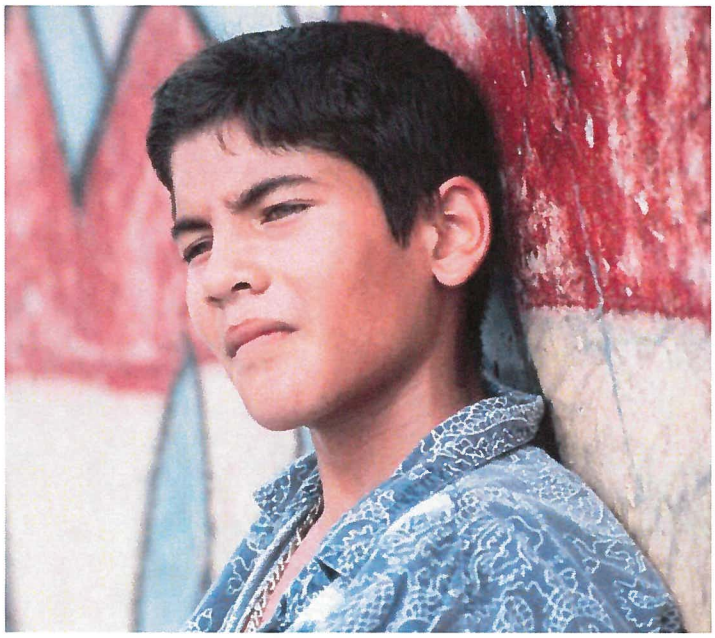
RESULTS

Who experiences parental incarceration?

One in 14 U.S. children. According to their parents, nearly seven percent of children in the United States have lived with a parent who was incarcerated at some time after the child's birth. This amounts to more than five million children, ages birth through 17, as of 2011-12. Among children younger than 6, the rate is 5 percent. Among those ages 6 to 11, and 12 to 17, the rate is 8 percent each. Because the prevalence is about the same among younger and older school-age children, we can infer that most initial episodes of parental incarceration occurred before the child was 9—after which rates remain relatively stable. (See Figure 1.)

[b] All of the cited studies included at least some controls for confounding factors.

[c] Cross-sectional data provide a snapshot at a given point in time.



When a child's parent is incarcerated, traumatic stress may occur through multiple pathways. First, it involves the loss of an attachment figure, and may be particularly troubling to the child because the loss is not easily explained or understood. Second, whether or not the child witnesses the parent's arrest, he or she may have ongoing, if sporadic, contact with law enforcement, judicial, corrections, and child welfare systems, all of which can contribute to further traumatization.[21]

On average, children who had ever had a resident parent incarcerated experienced 2.7 other ACEs, out of the eight included in the survey (see "Outcome Variables Definitions" for a complete listing). Children without experience of parent incarceration had, on average, 0.7 ACEs.

This pattern held with all age groups. Among children younger than 6, the ones with an incarcerated parent had 1.6 more ACEs than children who had never experienced parental incarceration. For children 6 to 11 the increment was 1.7 ACEs; and for children 12 to 17, 2.2.

Among children who ever had an incarcerated parent:

- More than half had lived with someone who had a substance abuse problem, compared with less than 10 percent among children with no parental incarceration.
- Nearly 3 in 5 had experienced parental divorce or separation, compared with 1 in 5 among children without parental incarceration.
- More than one-third had witnessed violence between their parents or guardians, and one-third had witnessed or experienced violence in their neighborhood. Less than 10 percent of those without an incarcerated parent had experienced either one.
- More than 1 in 4 had lived with someone who was mentally ill or suicidal, and nearly 1 in 10 had experienced the death of a parent (see Figure 2).

More than half of children who have had an incarcerated parent have also lived with someone who had a substance abuse problem.

Our approach allows us to examine the association between parental incarceration and well-being measures, *independent* of the effects of these other variables. We also tested the robustness of the model by varying which control variables were included; results were the same in all but one of the models. More detail on the methodology used can be found in "Methods," toward the end of the report.

What we found:

As expected, controlling for the differences in demographic characteristics between children with and without an incarcerated parent reduced the number of significant associations between parental incarceration and child well-being. However, some remained—suggesting that, even among children who face multiple difficult circumstances, having a parent imprisoned conveys added risk.

For children under 6, risk for developmental delay, the measures of flourishing, and positive parent interactions were not associated with parental incarceration.

FOR CHILDREN YOUNGER THAN 6

The only well-being variable associated with an incarcerated parent, after controls, was the number of additional ACEs. Risk for developmental delay, the measures of flourishing, and positive parent interactions were not associated with parental incarceration. After controlling for demographic variables, children who had experienced parental incarceration had, on average, 1.2 more ACEs (excluding parental incarceration) than children without that experience. Once again, prior research suggests that the greater the number of adverse experiences, the greater the likelihood of lasting harm to the child.[22]

FOR CHILDREN AND YOUTH 6 TO 17

ACEs: For children in this age group, parental incarceration was also significantly associated with the number of additional ACEs. After accounting for the control variables, children ages 6 to 11 with an incarcerated parent had, on average, 1.4 more ACEs than those who did not. For older youth (12-17), the average was 1.7 more ACEs.

There were significant negative relationships between school-related well-being and having had an incarcerated parent.

School: There were some significant negative relationships between school-related well-being and having had an incarcerated parent. Children ages 6 to 11 with an incarcerated parent were, on average, 9 percentage points more likely[e] to have school problems than those without (44 versus 35 percent likelihood). They also had lower school engagement. For instance, they were 5 percentage points less likely, on average, to have the highest school engagement score (77 versus 82 percent likelihood). For youth ages 12-17, those with an incarcerated parent were also more likely to have school problems (43 versus 35 percent likelihood). For these older youth, there was no significant relationship between school engagement and parental incarceration.

Parental monitoring: There was a small association between parental incarceration and parental monitoring. Among older youth, parents[f] of youth with an incarcerated parent were 4 percentage points more likely to not have met any of their friends (24 versus 20 percent likelihood). Research has found that parental monitoring is associated with a lower risk of youth engaging in risky behaviors.[23] There was no similar relationship in the case of younger children.

[e] For all analyses of bivariate and ordinal outcomes, the percent difference in likelihood is the mean marginal effect, which is based on the derivative of the probability curve.

[f] Strictly speaking, this refers to the respondent. In 92 percent of cases, this is a parent.

incarcerated parent is or was affected, but we cannot distinguish parent respondents who may have been incarcerated from those who had not. Moreover, it is important to keep in mind that all measured variables were based on parents' own reports.

There may also be indirect effects of parental incarceration that are not measured in our models. Because we controlled for parental divorce and other adverse experiences, we could not identify *indirect* effects that parental incarceration may have had. For instance, if parental incarceration increased the likelihood of divorce, and divorce had an effect on an outcome, that effect would not be evident.

IMPLICATIONS

Discussions of U.S. corrections policy do not often consider children. But the available data suggest there are more children who have experienced a resident parent's incarceration than there are currently incarcerated adults, both because of past incarcerations, and because incarcerated adults typically have multiple children.[26]

We need effective programs to mitigate the harm associated with having an incarcerated parent. Although in-prison training programs focused on parenting skills are common,[27] few are focused on meeting the needs of children directly during the time parents are in prison.[28]

One thing that policymakers can do is make it easier for children to maintain positive relationships with their parents during the period of incarceration. While there is often semi-regular contact (in one study, 52 percent of incarcerated parents had at least monthly mail contact, and 38 percent had at least monthly phone contact), in-person visits are relatively rare.[29] This is likely due to a number of factors, including the cost and time to travel to distant facilities, the burden and discomfort of security procedures, and a lack of child-friendly places to meet. Even phone calls can be prohibitively expensive.[30] Caregivers who are estranged from the incarcerated parent may not allow visits, and incarcerated parents are not granted parental visitation rights.

Encouraging communication between parents in prison and their children, and improving the settings for visits, are good places to start.

In-person visits can also be upsetting to children.[31] From children's perspective, visiting a parent in prison is likely to subject them to what has been termed "secondary prisonation," whereby they experience subtler versions of the physical confinement, elaborate surveillance, and restrictive rules typical of such institutions.[32] However, this may have more to do with features of the prison setting than with the visit itself; studies that have evaluated child-friendly visiting areas and policies (such as relaxed security procedures for children) find positive results for both children and their parents.[33]

One researcher lists five major types of programs for incarcerated parents. These include education in parental skills, programs that provide extended special visits for children, child-friendly facilities for visits, parenting support groups, and custody services. There are also prison nurseries where very young children can live full-time with their incarcerated mothers, but these programs apply only to a small number of children with imprisoned parents.[34]

As policymakers grapple with alternative corrections strategies that divert adults (including many who are parents) from incarceration, they can also improve well-being for those children whose

DATA SOURCE

We use data from the 2011-12 National Survey of Children's Health (NSCH), a survey sponsored by the Maternal and Child Health Bureau in the U.S. Department of Health and Human Services. The NSCH is a telephone interview survey where a parent (or other knowledgeable adult) reports about a child in their household. The data are representative of children younger than 18, and produce valid estimates for the nation, as well as for all 50 states and the District of Columbia.

In 2011-12, the survey asked whether the sample child had ever lived with a parent or guardian who had been incarcerated at any point since the child was born. We lack information on whether it was the child's mother or father who is/was incarcerated, whether they are a biological or step-parent, or whether they were living with the child at the time of the incarceration. If a non-residential parent experienced incarceration, that would not be picked up by this survey. Further, the timing of the incarceration, or whether there were multiple incarceration spells, is unknown. Thus, when we refer throughout to "parental incarceration," readers should bear in mind these limitations.

METHODS

For each well-being outcome, we used multiple regression to test its relationship with parental incarceration. Depending on the type of measure, we used logistic (for bivariate outcomes), cumulative multi-logistic (for ordinal outcomes), or ordinary least-squares regression (for the number of additional adverse experiences). We ran two regressions for each relevant age group for each outcome.

- The first regression included a number of independent variables:
- Whether a parent that the child had ever lived with had ever been incarcerated (as an explanatory variable);
- A number of demographic control variables, including the child's gender, race/ethnicity, poverty level, family structure, and age;
- Other adverse childhood experiences, including parental divorce or separation, death of a parent, witnessing domestic violence or violence in the community, and living with someone who had mental health issues or a substance abuse problem. These measures were excluded from the analysis of additional adverse experiences.

To test the robustness of the model, non-significant additional adverse experiences were removed for a second regression analysis. In all cases but one, the significance of the association between parental incarceration and the dependent variable was unaffected.

All regressions were run using SUDAAN, and accounted for the complex design of the NSCH. Analyses used the multiply-imputed poverty data released with the survey, and accounted for the resulting increase in variance.

Where we mention differences between children who have experienced parental incarceration and those who have not, the differences are statistically significant, unless otherwise stated.

School engagement (ages 6 to 17)

A "school engagement" scale from zero to three (alpha=0.6), had a child receiving one point for meeting each of the following conditions:

1. The child usually or always shows interest and curiosity in learning new things,
2. The child usually or always cares about doing well in school, and
3. The child usually or always does all required homework.

School problems (ages 6 to 17)

Children and youth were considered to have school problems if

1. They had ever repeated a grade, or
2. Their school had contacted an adult in the household in the past twelve months about problems they were having with school.

Participation in sports or clubs (ages 6 to 17)

Children and youth were considered to have participated in out-of-school activities if they participated in a sports team, or took sports lessons after school or on weekends, or participated in any clubs or organizations after school or on weekends.

Parental aggravation (ages 6 to 17)

Parental aggravation (alpha=0.6) was measured on a scale of zero to three; children received one point for each of the following items to which the respondent answered "usually" or "always" regarding their past-month experience:

1. Felt that the child is much harder to care for than most children their age,
2. Felt that the child does things that really bother the respondent a lot, and
3. Felt angry with the child.

Emotional difficulties (ages 6 to 17)

Emotional difficulties were measured on a scale of zero to three (alpha=0.4). Children received one point each for meeting each of the following conditions:

1. The child usually or always argues too much,
2. He or she sometimes, usually, or always bullies or is cruel or mean to others, and
3. He or she is usually or always unhappy, sad, or depressed.

Regular religious service attendance (ages 6 to 17)

Children were considered to have regular religious service attendance if parents reported they attended at least once a week.

Regular family meals (ages 6 to 17)

Children were considered to have regular family meals when they had had a meal with the whole household on at least six days in the past week.

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Appendix 1: Children With an Incarcerated Parent, by Select Measures and by Age (Percentages)

	Total	Younger than 6	6 to 11 years	12 to 17 years
All children	6.9	4.5	8.2	8.1
Race				
Non-Hispanic white	6.0	3.9	7.0	6.9
Non-Hispanic black	11.5	7.8	12.3	13.6
Hispanic	6.4	4.0	8.3	7.3
Other	7.0	4.4	8.4	8.6
Highest parental education				
Less than high school	8.2	5.1	8.1	10.7
High school graduate	7.5	4.9	9.2	8.1
More than high school	5.8	4.0	7.0	6.6
Poverty level				
Poor (<100% FPL)	12.5	8.6	14.3	15.8
Low-income (100% to 199% FPL)	9.1	4.6	11.2	11.3
Not low-income (200% FPL or more)	3.9	2.3	4.6	4.5
Immigration status				
All parents native-born	7.4	4.6	9.3	8.0
Living with at least one foreign-born parent	2.9	2.2	3.0	3.6
Urbanicity				
Within a metropolitan area	6.3	4.2	7.3	7.5
Outside a metropolitan area	10.7	6.3	13.1	12.1

Appendix 2: Unadjusted Outcome Measures Among Children Younger than 6: Total, and by Parental Incarceration Status (Percentages)

	Total	Ever had incarcerated parent	Never had incarcerated parent
Risk for developmental delay			
High	10.8	14.8*	10.6
Moderate	15.2	22.3*	14.9
Low	13.9	21.3*	13.0
Flourishing on all four measures	73.4	66.5*	74.0
Positive parent interaction score			
0	16.3	22.1*	16.0
1	17.1	18.3	17.1
2	25.6	26.5	25.5
3	41.0	33.1*	41.4

*Difference between those with an incarcerated parent and those without is statistically significant (p<.05).

	Ages 6-17			Ages 6-11			Ages 12-17		
	Total	Ever had incarcerated parent	Never had incarcerated parent	Total	Ever had incarcerated parent	Never had incarcerated parent	Total	Ever had incarcerated parent	Never had incarcerated parent
Parent knows									
All friends	27.6	25.9	27.7	33.7	30.4	34.0	21.8	21.4	21.7
Most friends	48.8	45.6*	49.2	43.5	41.0	43.8	53.9	50.1	54.3
Some friends	21.4	25.8*	21.0	20.7	25.6*	20.2	22.2	26.0*	21.8
No friends	2.2	2.8	2.1	2.1	3.0	2.1	2.2	2.6	2.1

* Difference between those with an incarcerated parent and those without is statistically significant ($p<.05$).