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Office of the Child Advocate

ISSUE BRIEFING

Case Number 2019-04-IS01

Parents Incarcerated in the
New Hampshire State Prison System

April 30, 2019

MISSION

The mission of the Office of the Child Advocate (OCA) is to provide independent and impartial oversight of the New Hampshire Division for Children, Youth, and Families (DCYF), the state agency responsible for child welfare and juvenile justice systems, to promote effective reforms that meet the best interests of children.

To achieve this we:

- Listen to all concerns about DCYF
- Respond to complaints with a credible, objective review process
- Respect the importance of every person in a child's life
- Build collaborative relationships and provide informed recommendations for reform
- Promote practices that are proven to be effective to help children and families
- Maintain independence and impartiality of all aspects of our oversight of DCYF

DESCRIPTION

The OCA will periodically release issue briefs to inform DCYF and/or the public on activities of the office and/or to provide information and educational outreach on relevant issues in furtherance of the OCA mission and responsibilities. Issue briefs may highlight findings and recommended practices that would contribute to the best interests of children in the care or protection of DCYF.

JURISDICTION

The OCA shall “[p]rovide independent oversight of the division for children, youth, and families to assure that the best interests of children are being protected” and “[r]egularly consult with the department of health and human services and the oversight commission established in RSA 170-G:19.” RSA 170-G:18,III(a), (b). The OCA shall also “[h]ave the authority to review and investigate any aspect of the department's child protection policies or practices.” RSA 170-G:18,III(f). In addition, the OCA shall [p]rovide information and referral services to the public regarding the department's child protection services; provided that case specific complaints shall be handled by the department” and “[p]erform educational outreach and advocacy activities in furtherance of the mission and responsibilities of the office.” RSA 170-G:18,III(g), (h).

ISSUE

An estimated 15,000 New Hampshire children have experienced a parent being incarcerated at some point.¹ On March 1, 2019 there were almost 1,500 New Hampshire children with parents in prison that authorities knew about.² An incarcerated parent constitutes a significant loss to a child. It is an adverse childhood experience (ACE), impacting child development and, like other ACEs, leads to increased risk of long term physical and mental ailments.³ Parents returning home after incarceration may be unprepared for the transition back to a caregiving role. Children also may require careful preparation for the reintegration of a parent into an evolved family routine with resumption of interrupted relationships. In cases involving DCYF, where families are further disrupted by out of home placements during a parent's absence or imposed supervision, communication between parents, children and DCYF is essential for maintaining relationships and/or achieving permanency. The Department of Corrections, as custodian of the parent, is a partner in facilitating those relationships or the process of children achieving permanency.

BACKGROUND

On March 16, 2018 the OCA, along with Department of Health and Human Services (DHHS) and DCYF administrators, toured and met with staff and participants of the Family Connections Center (FCC) at the New Hampshire State Prison for Men. The purpose of the meeting was to learn about the FCC program and its frequent intersection with DCYF. The FCC's mission, when safe and appropriate, is to strengthen the connection between incarcerated parents and their families while facilitating ties to their community through education and support. The attached FCC program description further describes this mission. Program participation is limited by available FCC resources and, for the safety of children and families, residents of the prisons must remain disciplinary-free in order to participate. Residents who are convicted of a sex offense against a child under the age of 14 are excluded from the FCC program.

Children of parents who are incarcerated are at increased risk of being under care or supervision of DCYF. Child protection is guided by federal law. Most relevant to parents who are incarcerated is the federal Adoption and Safe Families Act⁴, that requires children have permanency in living arrangement within 12 months of being taken into care. During those 12 months, the state must make family reunification a priority. The most recent federal Child and Family Services Review assessed DCYF to be out of conformance with the expectation of family

¹ The Annie E. Casey Foundation (2016) A Shared Sentence: The Devastating Toll of Parental Incarceration on Kids, Families and Communities. (Based on 2011-12 National Survey of Children's Health. Includes only children whose incarcerated parent ever lived with them).

² Viola, T, (2019). Negotiating the Prison System: To Have Better Outcomes for Children. Presentation at the DCYF Conference, Nashua.

³ Felitti, VJ, Anda, RF, Nordenberg, D, Williamson, DF, Spitz, AM, Edwards, V, Koss, MP, Marks, JS, (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The Adverse Childhood Experiences (ACE) Study. American Journal of Preventive Medicine, 14(4): 245-258.

[https://www.ajpmonline.org/article/S0749-3797\(98\)00017-8/abstract](https://www.ajpmonline.org/article/S0749-3797(98)00017-8/abstract)

⁴ PL 105-89 <https://www.govinfo.gov/content/pkg/PLAW-105publ89/pdf/PLAW-105publ89.pdf>

engagement, especially fathers⁵. Engagement is more complicated when parents are incarcerated. There is a disproportionate rate of terminated parental rights among those who are incarcerated. That is often due to length of sentencing that extends beyond the 12 months to permanency. In addition, obstacles to communicating about the DCYF and court process further interfere with maintenance of a child-parent relationship. Without consistent communication, parents may also not be informed of opportunities to maintain alternative relationships, such as voluntary mediated agreements with adoptions, which may allow for continued contact as agreed to by adoptive parents.

During the March 2018 visit, DHHS and DCYF administrators discussed the potential role of the FCC in DCYF's conformity with federal requirements. The OCA provided a brief explanation of the Office, the DHHS Ombudsman Unit, and available assistance for FCC staff and parents who are incarcerated. On November 27, 2018 the OCA staff visited the FCC at the Concord Men's Prison again to meet with father's participating in the program. The OCA provided the father's with information about the OCA, the Ombudsman, and DCYF services. On that visit, OCA staff also met individually with fathers who had questions and concerns about DCYF's involvement with their children. On January 10, 2019 the OCA met with participating mothers who are incarcerated in the New Hampshire Correctional Facility for Women in Concord. Again, the OCA provided information about the OCA, the Ombudsman, and DCYF services; and spoke with mothers about individual DCYF cases. Additionally, the OCA has received calls from or on behalf of parents who are incarcerated with questions and concerns about DCYF actions. The OCA also met with DCYF administrators and DOC Commissioner Helen Hanks and DOC staff to obtain information and share findings.

FINDINGS

Several areas of concern were identified in these meetings and communications.

Parents reported:

- Difficulty keeping up to date on their children's circumstances
- Difficulty keeping up to date on DCYF case progression and court dates
- Dissatisfaction with honoring of parental rights
- Lack of or inconsistent visitation with children, even when visitation was court ordered.
- Poor communication with DCYF caseworkers, JPPOs, CASA/GALs and GALs
- Lack of ability to communicate due to limited finances or scheduling
- Generally lack of information about DCYF processes
- Limited access to and assistance from DOC case managers

⁵ Children's Bureau, (2018). Child and Family Services Reviews: New Hampshire Final Report. U.S. Department of Health and Human Services, Administration for Children & Families, Administration on Children, Youth and Families.

In review of individual cases, the OCA discovered:

- Court delays due to failure to notify parents of court dates that caused delays to permanency/adoption
- Missed parent/child visits due to DCYF transportation vendor refusing to transport children to prison visitor center
- Unplanned family reunification with imminent prison release
- Insensitive and untimely telephone notifications of terminated parental rights
- Inconsistent communication by DCYF caseworkers (hard to reach, unreturned calls)
- Unclear and/or inconsistent communication about assessed positive or negative impact of prison visits on children’s wellbeing by providers, foster parents, caseworkers, and parents

Through these observations, the OCA identified several themes of strengths and need for improvements in a brief assessment of the problems identified by parents who are incarcerated.

STRENGTHS	NEED FOR IMPROVEMENT
<ul style="list-style-type: none"> • Parents’ desire to maintain family relationships and connections with their children • Parent willingness to participate in parenting education • Access to parenting support and education, provided by the FCC • Facilitation by the FCC for family engagement • DOC supervision and assessment for safety • Supportive environment for parent-to-parent engagement • DOC new E-mail system with universal access • DOC system-wide telephone access • FCC staff and DOC case managers to facilitate communication • FCC staff presenting at DCYF leadership meeting and 2019 DCYF conference 	<ul style="list-style-type: none"> • Federal Child & Family Review identified engagement of fathers as a key area for improvement • Insufficient funding for the FCC (limited staff, equipment, camp slots, other events) • Cost of E-mail/phone communication with DCYF, OCA • Obstacles to visitation for all parties due to transportation, paperwork, communication, and complex logistics of incarceration • Lack of transition preparation for parents and children at impending release to home • DCYF untimely communication regarding opening of cases, case status changes, caseworker changes, court dates • DOC case managers untimely communication • DOC-DCYF familiarity with roles, contacts and procedures

PROBLEM

The incarceration of a parent and all its associated stressors such as poverty, social difficulties and housing instability, has a profound impact on a child's wellbeing. Risk factors elevate for mental health, physical health, school performance, problematic behavior, and other developmental milestones.^{6,7} Relationships with parents and their degree of closeness have positive effects, including as a buffer for poor mental health outcomes in children. The strength of the parent-child bond and consistency of contact have been shown to impact children's emotional response and incidence of their own problem behavior.⁸ However, the benefit of that relationship decreases with history of incarceration or current incarceration.⁹ Prevention of parental incarceration is the primary protectant for children.

When parents are incarcerated and DCYF becomes involved, both DCYF and DOC are positioned to first assess the safety of promoting an ongoing relationship between child and parent. The primary purpose of NH RSA 169-C:2 must be adhered to so as "to provide protection to children whose life, health or welfare is endangered." If it is safe to facilitate and preserve relationships, and reunification is expected, visitation and consistent communication between child and parent, or about child with the parent, must be reliable and timely. Parenting education and support must be readily accessible to prepare the parent to take up responsibilities in an effective, safe way while incarcerated and after release.

If the relationship will not be maintained and an alternative permanency plan is sought, communication about the process between DCYF and the parent must be carefully maintained to avoid any delays to permanency. In the case of expected termination of parental rights, the further purpose of RSA 169-C:2 must also be considered, that is, "to protect the rights of all parties." Parents' rights to a relationship with a child should not supersede a child's right to be protected from harm, including if visits to a prison are intolerable. But in the situation when a parent's loss of parental rights is in the child's best interest, diligent communication, education about the developmental and permanency needs of a child, and legal information about alternative adoption options, such as voluntary mediated agreements, will ensure that this difficult process proceeds as smoothly as possible and protects all parties from exacerbated stress and grief.

In the context of the competing needs of parent and child when a parent is incarcerated, the problem is clear: DCYF and DOC have not consistently supported families and protected children by:

- ensuring consistent, accurate and timely communication,
- elevating a child's interests as prime,
- supporting parents for ongoing parenting and,
- when necessary, easing the loss of the parenting role.

⁶ Bocknek EL, Sanderson J, Britner PA, (2008). Ambiguous loss and posttraumatic stress in school-age children of prisoners. *Journal of Child and Family Studies* 18(3):323–333. <http://dx.doi.org/10.1007/s10826-008-9233-y>.

⁷ Murray J, Farrington DP, Sekol I, (2012). Children's antisocial behavior, mental health, drug use, and educational performance after parental incarceration: a systematic review and meta-analysis. *Psychological Bulletin*, 138(2):175-210.

⁸ LaVigne, N., Davies, E., & Brazzell, D. (2008). Broken bonds: Understanding and addressing the needs of children with incarcerated parents. The Urban Institute Justice Policy Center, Washington, D.C.

⁹ Davis, L, Shlafer, RJ, (2017). Mental health of adolescents with currently and formerly incarcerated parents. *Journal of Adolescence*, 54: 120-134. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5549675/>

IDENTIFIED SOLUTIONS

Communication is the key solution to maintaining relationships, complying with court orders and facilitating appropriate permanency plans for children. Needs in the process, obstacles encountered, and potential solutions are provided below for both DCYF and DOC.

Need	Obstacle	Solution
DCYF: Incarcerated parents must be located when a child comes into state custody in order to plan and proceed with the child protection process	Parent's whereabouts may be unknown.	DCYF personnel seeking the location of a parent who may be incarcerated can use the Inmate Locator for the NH Department of Corrections at https://business.nh.gov/inmate_locator/
DCYF: Prompt communication with DOC case managers in order to locate and/or share case information with parents	Case managers and contact info not known	Contact case management supervisors for information. Ensure all DCYF staff have access to DOC Case Management Supervisors' contact information. FCC may assist with locating case managers.
DOC: Prompt communication with DCYF caseworkers to assist with parent access and follow up	Multiple district offices, assigned caseworkers not known.	Ensure all DOC case managers are issued central and district office contact sheets with instructions for locating assigned staff
DOC: Telephone access. Parents require phone access to communicate with DCYF caseworkers, CASA/GALs, children and families. Direct communication would minimize reliance on the DOC case manager and provide flexibility for timing of calls. DOC reports adequate number of phones and least expensive service in country. However, parents report inability to pay for calls.	Cost of calls. Parents have limited income.	The DOC is willing to investigate whether some phone calls, such as calls with DCYF personnel or the OCA may be free of charge. It would require DCYF providing a limited list of phone numbers that could be identified in advance as qualified. For example, one central number for each DCYF district office could be pre-approved for no-charge calls. The OCA phone number is 603-271-7773.
DOC: E-mail access. Parents and DOC report the availability of tablets that may be purchased or borrowed for purposes of communicating via E-mail. Parents report a fee for both E-mails and replies received that must be paid in advance.	Cost of emails. Parents have limited income.	The DOC has been asked to consider whether some E-mails, such as DCYF and OCA E-mails, can be free of charge.
DCYF/DOC Permission for Visitation. NH DOC PPD 7.09 Attachment 5 - <i>Notarized Permission for Minor Children to Visit an Individual Under the Care and Custody of the NHDOC</i> must be completed, notarized and presented to visiting room staff prior to visits.	Advance paperwork may be cumbersome and visits may be cancelled if paperwork is not completed.	DCYF: Review policy with all staff. Ensure child is on parent's visitor list and Attachment 5 is completed, notarized and on file as soon as potential for visits is identified. Consider a DCYF policy for DOC visits (unable to locate a current one).

Need	Obstacle	Solution
<p>DOC: Family Support. Parenting education, support, guidance. Assistance with access to children through phones and video chat. Opportunities for special visits during parent day and summer camp. The Family Connections Center offers these services.</p>	<p>The Family Connections Center (FCC) operates on baseline funding. Cost associated with the video visits (part time staff and equipment) are funded with grants and donations. Because grant funding is not always sustainable.</p>	<p>DOC is contemplating allowing tablet-based video visitation throughout the system, beyond the FCC. It will have to be pre-scheduled and pre-authorized. This would address the problem of access to video visits, although having FCC staff provide guidance for family video interactions assures learning and healthy relationship building. Plans have been under development for approximately a year. This service would also carry a charge for the incarcerated parent and/or the family, which could be prohibitive in the same way phone calls and E-mails are. Because grant funding is not always sustainable, programs should undergo careful evaluation. Those that are proven effective should be considered for more consistent funding to ensure ongoing services. For community-based supports, the FCC is partnering with the NH Department of Justice and Family Resource Centers to apply for funding under the federal Second Chance Act Addressing the Needs of Incarcerated Parents and Minor Children. The funding would support development of a community based network of services for children with parents who are incarcerated.</p>
<p>DOC/DCYF/Vendors: Visitation. For safety reasons there are strict rules regarding visitation at the New Hampshire Prisons. Advance background checks are necessary for all visitors, including accompanying adults.</p>	<p>Advance background checks may be cumbersome, especially when the identity of the adult accompanying a child on a visit to the prison may not be known until the day of the visit.</p>	<p>DCYF and provider agencies could seek advanced approval for all personnel likely to be assigned to accompany a child. DCYF/Vendors: Consider including application in on-boarding packet to keep on file in DO. See NHDOC Visitation Procedure for incarcerated parents to visit with their children who are in State custody.</p> <ul style="list-style-type: none"> • Keep approval letters on file for easy accessibility • Bring approval letter, driver's license and child's birth certificate •

Need	Obstacle	Solution
DCYF/DOC Permission for Visitation. NH DOC PPD 7.09 Attachment 5 - <i>Notarized Permission for Minor Children to Visit an Individual Under the Care and Custody of the NHDOC</i> must be completed, notarized and presented to visiting room staff prior to visits.	Advance paperwork may be cumbersome and visits may be cancelled if paperwork is not completed.	DCYF: Review policy with all staff. Ensure child is on parent’s visitor list and Attachment 5 is completed, notarized and on file as soon as potential for visits is identified. Consider a DCYF policy for DOC visits (unable to locate a current one).
DCYF: Safety & Ensuring visits. Compliance with DOC Visitation Dress Code is necessary to ensure a visit occurs. Since strict visitor dress codes have been established, prison contraband has diminished significantly.	Communication in coordination of child visits may not include information about rigid dress code. Children may be turned away from visits if the child or accompanying adult is dressed inappropriately.	DCYF: Ensure all caseworkers, vendors, foster parents and caregivers preparing and transporting children to prison visits are fully informed and in compliance with DOC dress code. Consider incorporating notification process in DCYF policy for DOC visits.
DCYF/DOC Partnership. Both agencies need familiarity with each other’s roles, policies and practices.	No established routine communication for updates and problem solving.	The DOC FCC recently presented to DCYF supervisors meeting and at the annual DCYF Conference with positive feedback. Regular communication should continue. Consider incorporating DOC policy and procedure, staff roles and contact information in Core training for DCYF caseworkers.

CONCLUSION

The average time served in state prisons in the United States is approximately 2.6 years.¹⁰

Although some incarcerated parents may relinquish their parental rights or have their parental rights terminated, many maintain their relationships with their children and ultimately return home to take up parental responsibilities. Nonetheless, regardless of expected outcome for incarcerated parent-child relationships, communication must be diligent and timely.

For those parents who remain connected and plan to return to their children, transition may be difficult and further negatively impact child wellbeing and development. In those cases, and when in the child’s best interest, safe, regular visitation between parents and children is critical to maintaining consistent relationships and ensuring trust and security for the child. Supportive and attentive communication is also necessary to allow for children to have their needs met and guarantee that parent/child relationships are as healthy and developmentally supportive as possible.

¹⁰ Kaeble, D, (2018). Time served in state prison, 2016. US Department of Justice Office of Justice Programs, Bureau of Justice Statistics. Accessed at <https://www.bjs.gov/content/pub/pdf/tssp16.pdf>

RESOURCES

DOC Family Connections Center <https://www.nh.gov/nhdoc/fcc/index.html>

Kristina Toth, Program Administrator
(603) 271-2255
kristina.toth@doc.nh.gov

Family Connections Center-Concord
NH State Prison for Men
PO Box 14
Concord, NH 03302-0014
(603) 271-1926
(603) 271-1815

Family Connections Center – NH Correctional Facility for Women
42 Perimeter Road
Concord, NH 03301
603-271-0593
FCCMothers@doc.nh.gov

Family Connections Center - Berlin
Northern NH Correctional Facility
138 East Milan Road
Berlin, NH 03570
(603) 752-0397
FccBerlin@doc.nh.gov

Family Connections Center
FccGoffstown@doc.nh.gov

DOC Communications & E-Mail Vendor Info: <https://www.nh.gov/nhdoc/communications.htm#Email>

Inmate Locator for the NH Department of Corrections at https://business.nh.gov/inmate_locator/

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