

Familial Death and the Penal State:

Disadvantaged Fatherhood in an Era of Mass Imprisonment*

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Of the many forms of civil and economic death experienced by formerly-incarcerated citizens, little attention has been paid to the familial death caused by mass incarceration. Focusing on fathers, this paper is a first attempt to provide an autopsy of that familial death. On the one hand, it explores how fathers, unlike mothers, are de-familialized through the denial of their roles as parents during incarceration—and how this denial undermines parental bonds and relationships. It then analyzes how this denial extends to post-prison life as more than half of these fathers become enmeshed in another of the largest, most punitive state systems in the U.S.: public child support enforcement, which further mixes up punishment, paternity, and finances in their lives. In the process, these state systems end up complicating exactly those relationships proven essential for reintegration after prison: familial connections of care, reciprocity, and interdependence. In this way, the paper argues that familial death be conceptualized alongside the civil and economic death that social scientists already know so much about—and thus understood as yet another form of the pains of imprisonment.

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“If you take me to jail right now, I won’t be able to get my kids from school,” Jay exclaims to Judge Matthews, as the packed Jacksonville courtroom looks on. “Today is my day to get them. If I’m not there, no one will pick them up. They’ll be alone, waiting.”

Unfazed by his pleas, Judge Maddox begins a lecture he will repeat countless times that day:

“Well, you should of thought about them last month, or the month before, when you decided not to pay child support. Being a father is not a right. It is something you earn. Since you’ve been out of prison, you aren’t working. You aren’t paying child support. So I’m sending you to jail. You need to learn this...what it means to be a real father.”

As Jay is removed from the courtroom, in handcuffs, he is told he will remain in jail until he comes up with \$1000 to purge himself from contempt of court. The other fathers listening in as they await their own cases all begin to freeze up. Some sweat, fidget, and shake their heads. “That’s cold,” one father says to another. “Tellin’ that man he ain’t a daddy if he don’t pay. What law says that? What part of the constitution says that? It’s messed up”

In 2013, the American Bar Association tallied up a list of all the laws, policies, and penalties created since the onset of mass incarceration that target people with criminal records. It came up with a total of 48,000 restrictions, which vary across states and jurisdictions. The overwhelming majority was related to employment and professional licensing—from the 25,864 restrictions on paid work to the 16,550 on occupational/professional licenses (Love, Robert, and Klingate 2014). The other large category involved civil restrictions, from voter disenfranchisement to juror ineligibility to the revocation of state-issued passports. While these “hidden sanctions” are not part of offenders’ official sentences, they are mandated by law and related to their criminal status. And they end up limiting social and political participation—leading some scholars to conclude that those with criminal records experience profound civil and economic death upon release from prison (Clear 2009; Gottschalk 2015; Western 2015, forthcoming).

There is another area of post-prison death that has received far less attention and analysis—and it comes from the 1,964 legal restrictions the same ABA study uncovered on offenders’ familial and domestic lives. Although quantitatively small, and constituting only 4% of all post-prison penalties, these familial restrictions are qualitatively powerful and very consequential. This is especially true given all the research that reveals how essential familial support is to the post-prison reintegration process. Families provide much-needed resources and social support during this transition; they are the one remaining safety net, now that public welfare safety nets have largely disappeared. Indeed, family and kin are more likely to go out on a limb for former-offenders, offering them the “favors” that so many need—a place to live, a lead on a job, a car to drive, or a loan to pay off a pressing debt (Western et al 2015; Miller and Alexander 2016). But the familial effect is even deeper: it is also about securing reciprocity and feeling human connection. It is about experiencing interdependence and the sense that your fate is tied to someone else’s fate. And it is about knowing that someone “has your back.” As Comfort (2008) has so beautifully shown, this is often what the partners of male inmates work so hard to give them—enduring their own humiliation and secondary prisonization so they can remain connected to these men and ward off the dehumanizing effects of prison.

Another group of family members can be just as central to the reintegration process: children. While scholars are just beginning to understand the role played by female kin and partners in reentry, we know next to nothing about how children fit into it. Yet, as Katz-Rothman (2005) reminds us, parenting is another key arena in which we learn human attachment and intimacy; it is a primary relationship in which we learn to feel a safe connection to and dependency on others. As Edin and Nelson (2013) have discovered, disadvantaged fathers often view parenthood in precisely these terms. They have explored the lure and importance of

fatherhood for many poor men: how some men see fatherhood as a form of redemption and as a turning point in their tumultuous lives. And how some struggle to redefine their fatherhood ideals into a new “package deal” that emphasizes what they can contribute to their kids’ lives as caretakers. Given these desires, how are paternal connections experienced when they occur in state spaces marked by power and punishment? When they emerge during a reentry process so often fraught with disappointment, surveillance, and rejection?

Over three years ago, I set out to explore these questions in a study of formerly-incarcerated fathers. Since over 50% of men in prison have open child support orders, the research was designed to look at the intersection of mass imprisonment and mass child support enforcement. Its findings were striking: Based on three years of ethnographic research in child support courts in New York, Florida, and California and 125 in-depth interviews with formerly-incarcerated fathers, I uncovered how these state systems converged to create complicated entanglements for fathers (Haney forthcoming). I also discovered how these entanglements worked in circular ways to form feedback loops of disadvantage—with some loops emerging from the penal system and all of the financial costs it exacts on incarcerated parents, while others emerged from the child support system and all of the punitive costs faced by those same parents. And I analyzed how the feedback loops created new forms of inequity around men’s roles as fathers.

Yet, as I analyzed those data, I kept coming across another set of findings related to the emotional costs of these entanglements and feedback loops. As Table 1 reveals, 63% of the fathers I interviewed were living without family—on the streets, alone, or with friends. This was the similar to the percentage of men who reported little or no formal income (although they were not the same men). These men had not always lived like this. They all had children; most had lived with them, and/or their partners, in the past. Moreover, in recalling that past, fathers often

became unglued and emotional. In court, they fluctuated between anger and sadness as they pleaded, like Jay did in his Jacksonville hearing, to be recognized as parents—to be seen and responded to as caretakers. In interviews, most men broke down when discussing their children. They cried for the lost time, for missing their kids’ upbringing, and for the gap between their paternal ideals and realities. It was as if they were mourning a loss or grieving a passing. In this paper, I describe their post-prison experiences in precisely these terms: as a kind of familial death. Like the civil and economic death we know so much about, there are systems in place to maintain the familial one. There are structural, legal, and policy underpinnings to the familial death. And there are emotional consequences to it, for both parents and children.

This paper is a first attempt to provide an autopsy of that death. Based on 125 interviews with incarcerated fathers, as well as direct observation of over 1200 child support adjudication cases, I argue that the carceral state deals two deathblows to fathers’ family lives.¹ The first is through penal policies and practices that erase men’s needs as parents, making it difficult for them to maintain connections to their children. This is followed by a post-prison experience of punishment through debt, as formerly-incarcerated fathers confront the massive system of child support enforcement. Together, the experiences of erasure, punishment, and debt can end up driving even the most committed of fathers underground. While necessarily schematic and meant to be provocative, my analysis ends by suggesting that the carceral state may create just the kind of subjects it is prepared to govern: fathers in need of discipline and punishment.

Family Portraits of Mass Incarceration

Mass incarceration has been studied from many angles, with scholars analyzing everything from the economic and political factors giving rise to it (Garland 2001; Wacquant 2009; Alexander 2012; Aviram 2015; Gottschalk 2015) to its implications for social life (Braman

2004; Western 2006; Clear 2007; Comfort 2008). Until recently, however, one area that remained largely ignored was its effect on family life. Or, more precisely, those familial effects were raised in research on women and children—thus leaving out men and fathers. What’s more, the way the family is conceptualized in this research has limited our understanding of it. The family has been studied more as a series of quantifiable outcomes as opposed to ongoing processes and relationships that shape offenders’ identities and attachments.

On the one hand, feminist criminologists and legal scholars have produced important work on female inmates’ struggles as parents (Enos 2001; Flavin 2009; Kruttschnitt 2010; Haney 2010). For incarcerated mothers, over 70 percent of whom are responsible for minor children, prison has turned their lives as caretakers upside down (Tapia 2010; Haney 2013). It has forced them to rear children from afar, through intermediaries, since incarcerated women tend to turn to female kin and friends for support (Bosworth 1999; Ferraro and Moe 2003; Vera Institute 2004). Feminist work has shown how this pattern feminizes the carework of mass incarceration, placing pressure on women who are over-burdened financially and straining already-fraught kin relationships (Sudbury 2005; LeBaron and Roberts 2010; Comfort 2008, 2016). It has also shown how the process of punishment reshapes women’s relationship to their kids—familializing women in ways that turn their children into rewards and punishments for good/bad behavior (Enos 2001; Flavin 2009).

In addition to examining women’s parental struggles as inmates, feminist scholars have analyzed the myriad of ways that mass imprisonment changes the social relations of reproduction (LeBaron and Roberts 2010). By removing close to 2 million men from social life, it changes all sorts of divisions of labor, but most clearly caretaking. Scholars have shown how all the work that goes into caring for these children then gets absorbed by women (Flavin 2009; Kruttschnitt

2010). They have revealed how mass incarceration has left many mothers without partners—intensifying the demands placed on them as caretakers and breadwinners (Enos 2001; Sudbury 2010). And they have documented how women struggle amidst constant deprivations and indignities to keep their families afloat and male partners connected to them (Comfort 2008).

Alongside mothers, children play a prominent role in the scholarly family portrait of mass incarceration. Since the onset of mass incarceration, over 74 million children have experienced the incarceration of a parent, and there is an abundance of research on their struggles and problems. Researchers find that parental incarceration adds new levels of disadvantage to already disadvantaged kids (Wildeman 2009; Arditti 2012; Wakefield and Wildeman 2016; Wakefield, Lee and Wildeman 2016). Young children experience developmental delays, separation anxiety, and attachment difficulties (Bloom and Steinhart 1993; Cho 2009; Geller et al 2009). School-age children have behavioral problems, educational delays, and emotional troubles (Seymour and Hairston 2001; Western and Petit 2010; Hagan and Foster 2012; Haskins 2014; Andersen 2016). And older kids are more likely to drop out of school, end up in foster care, and become incarcerated themselves (Johnson, Levine and Doolittle 1999; Bernstein 2005; Western and Wildeman 2009; Andersen and Wildeman 2014).

One group is curiously missing from these family portraits: men. They are absent in two respects. First, they are largely missing as the objects of empirical investigation. Although 60 percent of male inmates have minor children, they are rarely studied as parents, with parental needs and identities. Second, when men are studied as parents, they tend to be examined in absentia. The family portrait of mass incarceration is one of denial and separation—where the missing parent, usually the father, is important for what he does not provide. For instance, we know that children with incarcerated fathers are less likely to receive financial support—and,

when they do, it is about \$1300 less a year than those with non-incarcerated fathers (Geller, Garfinkel and Western 2011). We also know that the children of the incarcerated are more likely to live in poverty (Western 2006; DeFina and Hannon 2010). Thus, it is through the father's absence that punishment is said to operate; the loss of his financial support makes kids suffer.

As Lara-Millan (2014) has pointed out, to the extent that men enter the picture as family members, they are usually analyzed as the mechanisms through which the effects of imprisonment disperse in families. They are the conduits through which the “ubiquity of the prison” touches all kin and community networks (Clear 2009: 9). And that touch is usually a slap: the research here documents the many negative outcomes emanating from male inmates, from disease to poverty to emotional turmoil to social stigma (Braman 2004; Schnittker and John 2007; Schnittker, Massoglia and Uggen 2011; Wildeman and Mueller 2012; Comfort 2016). In terms of the family specifically, data from the Fragile Families Study reveal an enormous amount about how paternal incarceration relates to childhood disadvantage (Wildeman 2009; Wakefield and Wildeman 2016), familial instability (Turney 2013), domestic violence (Western 2006), and parental depression (Turney, Schnitter, and Wildeman 2012b). As Lara-Millan (2014: 883) perfectly summarizes it: “Essentially, it is the inmate who receives the negative effects from having been incarcerated and then exposes family members to these effects.”

Without question, this research on the link between imprisonment and familial turmoil helps to illuminate the lived reality of parents and children within the penal state. But there is much more to the picture. Since most research in this area relies on large data sets and surveys, it tends to conceptualize familial practices as a series of discrete outcomes to be measured. One wonders about familial processes that are not so easily quantifiable: What meanings become attached to fatherhood through prison? How are men's paternal identifications redefined given

what they experience during and after prison? If we begin to explore these questions, might we be able to disentangle the different forces shaping men's lives as parents? Might we then be able to understand why so many negative outcomes seem to flow from them to their families?

Fathering in Prison: Bracketing the Paternal

Social scientists have a much better grasp of how prison affects female inmates' parenting. There is striking consistency here across penal environments: female inmates tend to be governed through their roles as parents. For women, the familial becomes a mode and a method of punishment. On the one hand, women's maternal practices are used as a barometer to assess their level of criminality. As Bosworth (1999) has shown, correctional staff use women's perceived commitments to their children to determine their level of reformability and thus their treatment in prison. Staff also interpret women's relationships in prison through a familial lens, so they are often maternalized without reference to their actual children (Enos 2001; Lempert 2015). Moreover, as I discovered in a study of a California prison for mothers, women are also punished quite directly through their children (Haney 2010). Correctional staff withdraws access to children as a reprimand for bad behavior and pits women's needs against those of their children—and force women to prioritize the latter. Thus, scholars tend to agree that motherhood becomes a technique of control and a means to a punitive end for women in prison.

When it comes to male inmates, there is much more of a scholarly silence—which is actually consistent with how men experience the familial in prison. Unlike women who often experience the maternal as inescapable, male inmates confront a deafening silence. Unlike women who are governed through clear (albeit unattainable) messages about what it means to be a mother, male inmates receive few messages about paternal ideals and expectations. Theirs is control through erasure—through the bracketing of their identifications and commitments as

parents. Drawing on my interviews with formerly-incarcerated fathers, I suggest this bracketing operates in two ways: through formal and informal restrictions on men's parenting in prison. Just as men's civil and economic lives are bracketed while they serve time, through constraints on meaningful employment, job retraining, civic participation, and educational programs, their familial relationships are also "put on hold" through official and unofficial silences.

Official Silences

While programs for mothers in prison are sorely lacking, they do exist in relatively large numbers. However inadequately, the U.S. penal system has responded to the huge increase in women in prison—a 650% increase since 1980—by recognizing their parental responsibilities. It has done so by creating penal facilities for mothers: from prison nurseries to actual mother/child penal institutions, which now operate in more than one third of states (Haney 2013). It has also incorporated a range of mothering programs which, while underfunded and contingent on state support, include everything from parenting classes to counseling to birthing programs (Boudin 2010; Hall 2010). By contrast, there are almost no comparable programs for fathers. In fact, there are so few fatherhood programs in prison that the Vera Institute (2001) could cover what does exist in a single report. There are a few exceptional cases: like New York's Family Works, which runs out of three large men's prisons or Pennsylvania's Long-Distance Dad's Program, which has branched out to 21 others across the state.² But these are the exceptions that prove the rule: prisons tend to erase male inmates' needs as parents and caretakers.

In many ways, this erasure is part of the larger shift away from the rehabilitative ideal in corrections—as well as a reflection of the lean and mean penal culture that has replaced it (Garland 2001; Gottschalk 2015). Across a range of areas, prison systems have ended or shrunk their programs and refused to devote new funds to areas once overlooked. Unlike the push for

mothers' prison programs, which often came out of reform movements that emphasized women-centered corrections, there was no equivalent push for penal systems to deal with fathers. Few policy advocates have pressured prisons to respond to male inmates' needs as fathers. As a result, the main push for prison-based programming for incarcerated fathers has come from the "responsible fatherhood" movement (Vera Institute 2001).

Irrespective of the state arena it is used in, the responsible fatherhood approach comes with a set curriculum that emphasizes behavior modification. When applied to poor fathers, this curriculum targets destructive paternal practices, like child abuse and neglect, and attempts to prepare men to think of themselves as breadwinners. For instance, the largest of these penal programs, the federally-funded InsideOut Dad Program, is run by the Fatherhood Initiative and works out of 25 state prison systems. Stressing men's individual accountability for bad personal decisions, the program is in many ways the parenting equivalent of a "human capital" approach to corrections, replete with calls for men to own their bad choices and move beyond them. But even these types of programs are available in a select few state and federal prisons.

As a result, a small percentage of male inmates have access to any sort of parenting program while in prison. Among those I interviewed, only a handful had taken a parenting class; those who did often encountered it as part of religious programming. The few men who had access to a non-religious program described it as uninspiring and disconnected from the realities of their lives as parents. In fact, they were very attuned to the prescriptive nature of the programming and the ways it was out of sync with their struggles as fathers in prison. As Manuel, a California father who had been to an InsideOut class while serving time, explained:

"There was this focus on what we had done wrong...having too many babies, too young. Not marrying our baby mamas. I was like, all that's done. How am I supposed to move on from here? From where I'm sittin' [in prison]?"

Or as Robert, another California father of two, put it:

“I’m in my cell all day and they [prison staff] were cuttin’ back all the time how much I could see my family...But in those classes, they had all these ways I was supposed to try to act with them and with my kids. But I never got to see them...So how was I supposed to try out all those things? The only good [thing] was that I got to talk about my kids in those classes....Otherwise, it was crazy shit.”

Robert raises another key element of the official silence to toward men’s familial relationships: the obstacles created by the penal system to their parenting. If the lack of parenting programs reflects the system’s focus on “leanness,” restrictions on access to family are evidence of its “meanness.” These constraints take a variety of forms. Most generally, as part of their heightened punitiveness, penal systems across the U.S. have placed new constraints on family visitation—from limiting visiting hours to cutting prison transportation to charging families for visits with incarcerated loved ones. Overnight visits for family members, as well as conjugal visits, are largely a thing of the past. This is especially true for inmates with long-term sentences. Even California, which had been the one hold out here, ended family overnights for inmates with life sentences in 1996—at the exact time of the upsurge in the number of prisoners with LWOP and other life sentences.

Moreover, judges rarely consider men’s familial connections when making sentencing recommendations. If keeping a female inmate close to her kids is difficult to secure, it is unheard of for fathers. This is made even more challenging given the new cross-state movement in sentencing, which states now engage in with great frequency as they search for the cheapest way to incarcerate (Aviram 2015; Gottschalk 2015). This may help to explain why roughly 60% of male inmates never receive personal visits from their kids, while only 18% see them more than once a month (Bureau of Justice Statistics 2010).³ And there has been a total silence on what these patterns mean for men’s familial connections.

Yet men themselves are quite clear about how the obstacles affected them. In our interviews, the overwhelming majority of men discussed parenting as something prison had “taken away” from them. They viewed fathering as a loss that was central to the punishment process. In fact, it ranked up there with the other losses of imprisonment. Like the stripping of their right to privacy, they referred to prison as “denying” them the ability to parent. Like the curtailing of their freedom of movement, they recalled doing time as “robbing” them of access to their children. And like the collateral consequences they knew came with a criminal record, they realized their time away would have real consequences for their familial bonds and wellbeing.

Unlike those other losses, though, the familial ones came with emotional costs. Most of these fathers broke down several times in our interviews when discussing the experience of doing time as a parent. To be more precise, this part of our interview fluctuated between extreme happiness and extreme distress. On the one hand, formerly-incarcerated fathers always seemed thrilled, even grateful, to be addressed as fathers. As I asked them about their children, they beamed with pride as they recounted aspects their kids’ lives—from their hobbies to personality traits to friendships. They eagerly showed me pictures of their children; they read me text exchanges with them; and they pulled up Facebook pages that included pictures of them together. As Jerry, a Miami father of two who was having a hard time reintegrating after a 10-year prison term, explained to me:

“We guys get real emotion when it comes to our kids. Whenever I need to stay positive, I think of them. When I think I can’t go on, I call them. Or I look at their faces on my phone. I remember all our good times. And all this shit I go through is worth it.”

But that happiness could switch to sadness in a split second. Especially when the interview turned to their carceral experiences. Men would start to cry when discussing how they had missed much of their kids’ upbringing. They cried when recounting how bonds that were

once strong became so mediated and frayed—and remained so ever since. Most of all, they cried when describing the yawning gap between their parental ideals and realities. Almost without exception, all the fathers I interviewed insisted that a “good father” was one who showed love through attention, care, and “just bein’ there.” Yet those were the precise things these men had denied their kids during their time in prison. As Ricardo, a Brooklyn father of two, explained:

“I never had a role model. I never had a father. He was never around... So I was gonna be different, man. I was gonna love my kids and shower them with attention. I was gonna go to every school thing, sports thing. But here I am, the same as my dad. Locked up. I missed it all... That just kills me.”

Unofficial Silences:

The losses experienced by Ricardo remained unaddressed in part because of official penal policies. But only in part. There are other reasons for the silence—reasons that have much more to do with the informal, unofficial prison culture. Close to half of the men I interviewed did not receive regular visits from their kids while incarcerated. Most of them said they *wanted* it this way. They claimed to have insisted that their children not come see them while in prison. Of course, it is impossible to know if this was their way of justifying the lack of visits or if they had indeed not wanted them. But some claimed to accept, even enforce, the bracketing of their familial lives while serving time. As Ronald, a Florida father of two teenage boys who served five years on a drug charge, explained to me:

“Oh, no, they did not come see me [while doing time]. I would not let them. All my family tried to bring ‘em. That was not going to happen if I had any say in it... They did not come even one time. Not even the day I was released. I saw them at home.”

Prisons are degrading, dangerous spaces. They have become more so in that last 25 years, with prison conditions becoming exceedingly demeaning and abusive under mass incarceration. From pervasive sexual violence to brutal cell extractions to gang warfare to inmate caging to administrative segregation, prison life is more violent and dehumanizing than ever before. And,

quite simply, many fathers did not want their children anywhere near such environments. First and foremost, these men insisted that prisons were just not “fit” for children. They did not want their kids exposed to what went on in these spaces—even if that meant not seeing them for years at a time. Interestingly, this was the same argument articulated by many prisoner advocates I spoke to, including those working on behalf of male inmates, to explain restrictions on incarcerated fathers’ access to their children. As the head of a progressive prisoners’ rights organization in Florida explained to me after I asked him about the possibility of a fathers’ prison equivalent to the mother/child units operating in prison across the U.S.

“Bringing kids to these [men’s] facilities for longer periods of time? That would be a terrible idea. We are trying to get men out of those spaces... I’m not even sure those dogs-in-training belong in there with them. Children certainly don’t.”

In addition, many fathers did not want their children to see *them* exposed to such degradation. Prison was an emasculating experience for them; it rendered them powerless and controlled. And they didn’t want their kids to see them subjected to such treatment—as powerless, humiliated, and demeaned. These were men for whom fatherhood connoted strength, and strength connoted control. Their masculinity was bound up with maintaining at least the semblance of power and authority, both of which the carceral experience tried to tame and claim. As Randy, a California father of five put it perfectly:

“They’d fuck with us all the time. Walk us out [to the waiting area] real slow...so they could control every movement. They’d keep the cuffs and shit on us for extra long... We’d be treated like caged animals, for everyone to see. They’d test us...make sure we do what they say all the time. I don’t want my kids [to] see that.”

This fear of appearing controlled was especially troubling to men when it came to their sons. These men shuddered at the thought of “their boys” observing them humiliated. All of the ways prison assaulted their self-respect and dignity stung even more when seen by their sons. Men claimed that guards took advantage of this, routinely forcing them to follow unnecessary

orders while family looked on. They recounted instances when guards provoked them in front of their sons as a way of “dissing” them—since they were unable to stand up to the indignities for fear of further reprisal and punishment. “It’s all a power trip,” Randy explained. “We’re always on the losing end...my boys shouldn’t see that.” Here the concern was less about the normalization of the prison environment for their sons and more about its normalization of their own weakness. As James, a Brooklyn father, put it:

“What kind of a role model [would I be]? I want them [his sons] to respect me, to show they understand I am the father. But how would I do that, coming to see me in prison clothes and chained up? Bein’ told where to go and how to move by some white guy?”

Connected to this, many incarcerated fathers feared showing weakness to those on the other side: to the prison staff and other inmates. Over and over again, men told me they refused even to discuss their families while in prison for fear of appearing “soft.” They didn’t want others to see them as weak, especially when it came to relationships with their kids. With female partners, men could portray their connections as consistent with hegemonic masculinity. But not so much with their kids. Men claimed to be more emotional *vis a vis* their kids, and thus more likely to show vulnerability—which, as Sabo, Kupers, and London (1999) remind us, is perhaps the most dangerous thing to show in penal environments. Men feared such shows of emotion would leave them open to being taken advantage of by the prison staff. They put them at a disadvantage in the perpetual “power trips” that Randy claimed characterized all inmate/staff relationships. They gave prison staff the upper hand in interactions by providing them with emotional ammunition to use against inmates. As Mario, a Florida father, recounted to me:

“They [the guards] will do anything to hurt us...They use everything to fuck with us. After one [visit] with my daughter, they started calling me a pussy... They got it in their heads that I was all soft, a pussy. They called me that for months.”

Men also feared looking soft to other inmates. This was especially true for those men serving long sentences in maximum-security facilities. They were weary to un-bracket the familial for fear it would expose them to ongoing harassment and taunting. Indeed, as Sabo, Kupers, and London (1999: 5) also remind us, the gender order in men's prisons consists of hierarchies of dominance in which "elite" men dominate groups of "lesser-status" men. To stay out of the latter, it is imperative that men "suffer in silence," "avoid any semblance of softness," and "not trust anyone" (Sabo, Kupers, and London 1999: 10-11). And the men I interviewed knew this prison code all too well—and how being seen as a caring father, in all senses of the term, was just too risky for them. As Michael, a middle-class father of two who served 10 years in Florida for a sexual offense put it:

"Prison is not the place to talk about your feelings... You could get killed for your feelings in there. I found one guy I could trust, that was it. We would talk about our kids a lot. How much we missed them...how bad we wanted to be a part of their lives. But that was it...No one else heard me talkin about my kids. Not ever."

So, whatever their reasoning, many incarcerated fathers contributed to the bracketing of their familial lives. They resisted talking about their lives as fathers; many even resisted seeing their kids while incarcerated. They held onto the feelings of loss and guilt that this bracketing created in them. Many of them repressed those emotions, while others didn't seem to have access to them. But few men ever let them surface. Unlike the economic and civil death, which men could resist while remaining within the bounds of hegemonic masculinity—by fighting against the lack of work or exploitative wages—familial death fell outside those bounds. It made them more vulnerable, which no one wants to be in a carceral setting. As Jerry put it so well:

"I just didn't think about it. Whenever I got sad about my kids—and I did get sad all of the time—I just pushed it away... Tried to do something else. I'd go lift [weights] or something. To get my mind off of them and how upset I was...It was like a tidal wave of emotion, just sittin in my stomach. Waiting to explode out, like that *Aliens* movie."

Yet this bracketing had real effects. It created real obstacles for all the men I encountered. For some, the carceral experience dealt a deathblow to their parenting. They were simply unable to recover from the tidal wave that built up inside them. Some had lost touch with their kids for too long; others had lost their nerve to reconnect with them. They were riddled with a sense of guilt, failure, and embarrassment. They worried about how their kids would see them, evaluate them, and condemn them. Of the hundreds of men I encountered in my interviews and ethnographic work, roughly 20% were picked off, as fathers, through imprisonment process. Perhaps they were ambivalent parents to start with; maybe they had never been committed fathers. But, after their time in prison, they resigned themselves to be fathers from a distance. In an emotional text, sent to me on Christmas eve by Dwayne—a Brooklyn father of three who I interviewed right after he was released from Sing-Sing—the costs of the loss are clear:

“Thank you for talking to me. Since I will not see my kids this holiday...and I doubt I will have the nerve to see them for a long time...talking about them was close to as good. Nobody asks me about them. I hope I told you our best memories. Thank you for letting me re-live them.”

Fathering after Prison: Punishing the Paternal

Although some fathers’ parenting never recovered from the period of incarceration, the overwhelming majority of men claimed to come out of prison ready to reunite with their kids. There is something of an irony here—the paternal bracketing experienced in prison often left men with more hope for their lives as parents after prison. Precisely because they had not been governed through kids, literally or figuratively, they could imbue those relationships with possibility and optimism. Unlike other familial relationships, which tended to be fraught and riddled with anger, suspicion, and distrust, those with their kids held hope and promise.

Prisoners often create long lists of things they anticipate doing post-release. This is especially true for inmates who have served long sentences: they pine for their first steps outside

prison gates, their first meal, their first drink, and their first night with a female partner. High up on this list is seeing their kids. In our interviews, men could recall exactly when this reunion happened, even what day of the week it was. They recounted what they wore and where they saw their kids. And they remembered what their kids' faces looked like when they saw them for the first time, what it felt like to hold them, and what they talked about first. As Rick, a Florida father of three who was incarcerated for seven years, recalled:

“That was the best day of my life. Went to a cookout at my cousin’s...drove over right from Baker [prison]. My kids saw me pull up. They ran to the car, jumpin all over it til I got out...They all hugged me at the same time. I think I fell to the ground or something. They were so big...I remember thinking, ‘These ain’t my kids’ cause they felt so big as they were hugging and pulling at me...We spent the rest of the day eating and talking and catching up...The best day of my life.”

While these reunions delivered all that fathers like Rick had hoped for, many things awaited them that they were unprepared for. Just as the extent of their post-prison civic and economic death would reveal itself to men in increments, over time, so did their obstacles as parents. And a key moment in this familial process was when men received the dreaded letter. They recounted this with almost the precision as the first post-prison meeting with their kids: the moment they opened the letter from the state office of child support. “At first, I thought it was a mistake,” explained Jerry. “Or a bad joke. I don’t have no child support. I don’t owe anything, I’ve been in prison. This must be a typo...The wrong name. Or too many 0s in what I owe.”

These letters were so symbolic that men often carried them around, pulling them out during our interviews—usually crumpled up, torn, or ripped in fits of anger. While there is little national-level data on the extent and amount of child support debt among the formerly incarcerated, we do know that 50% of men in prison have *open* child support orders (Cammett 2011). For some, “the letter” was the first they heard of these orders; for others, it was their first notice of how much their orders had ballooned while in prison. As Tables 1 and 3 indicate,

among the men I studied the average amount owed in back support, post prison, was \$36,500.

This is a huge amount of debt for anyone, but unimaginable for parents with the mark of a criminal record. Indeed, as many of these fathers would soon learn, the letter was a sign of the second deathblow to their parenting: death by debt and death by debt enforcement.

Death by Debt

LeRoy Jones is a tall, lanky African American man whose boyish face belies how much he experienced in his 42 years. Effectively orphaned at the age of 4 when his parents were sent to prison for drug trafficking, LeRoy bounced around from relative to relative until his early teens when he decided to start his own branch of the family business. Drug dealing came easy to him; he made a lot of money at it without getting into much trouble with the law. He recalls the 20 years that followed with a tinge of nostalgia and embarrassment. “I ran the streets hard,” he explained to me. LeRoy had two “baby mamas” and three kids, all of whom he insists he supported. “I was good to my women, always took care of them.” In 2000, LeRoy was arrested for drug trafficking and sentenced to 10 years in Florida State prison. He served the full sentence.

When I met LeRoy in the summer of 2015, he was clearly aging out of crime. With tears streaming down his tattooed face, he talked about his kids and how bad he felt about losing time with them. Then, as with so many men, those tears gave way to anger when the interview turned to what happened after release. While he was in prison, Janette, one of his “baby mamas,” went on public assistance for two years to make ends meet. He knew nothing about this until he saw the child support bill waiting for him when he got out. “When I opened that letter, and found out how much they wanted me to pay, my eyes jumped out of my head.” He owed over \$70,000 in back support. Long after he had served his time and left parole, he was still deep in debt. For LeRoy, two years of public assistance had turned into 15 years of child support entanglements.

While the amount LeRoy owed was extreme, his experience was quite common. Serving time in prison leaves fathers with enormous child support debt. This happens in two ways: going to prison can initiate a child support order and it can cause an existing order to increase exponentially. In terms of the former, about 65% of the men in my interview sample had orders filed against them while incarcerated—or, as fathers put it, they “got put on child support” while in prison. Usually, this occurs through public assistance payback policies that charge non-custodial parents for all public aid received by their families. Mandated by the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, these policies add everything from TANF to Medicaid to the parent’s child support bill—a debt that is owed to the state itself.⁴ Moreover, once a public order is established, child support authorities often convince custodial parents to file private orders—which are owed to them once public assistance ceases.⁵ These private orders can also be set retroactively, and thus taken back as far as the child’s birth in some states.⁶ And this debt is subject to interest and fees, which the majority of states routinely compute at an average rate of 10%. All of this is usually done in a punitive way, with judges and state attorneys convincing women of the need to “make men pay” and linking their failure to do so to their criminal behavior and incarceration.

In addition, for those 35% of fathers who entered prison with existing child support orders, the amount they owed increased exponentially. The rate at which it increased varies by state. Some states define incarceration as voluntary unemployment, due to the presumed voluntary nature of the criminal behavior that led to it, and thus set child support orders according to strict formulas—computing an inmate’s income at the full-time, minimum wage or the area wage rate (Turetsky 2000, 2008).⁷ Child support debt then accrues at this rate during the length of fathers’ sentences, even though few of them can earn those wages in prison. In other

states, where incarceration is viewed as involuntary unemployment, there is the *possibility* of child support accruing at a rate lower rate. But this often requires inmates to make a case for the reduced support order, which is at the discretion of the court. Few inmates even know about this possibility; even fewer have the wherewithal to pursue it upon entering prison.

In this way, no matter how imprisoned fathers get their child support orders, they are at a disadvantage in managing them while in prison. Unable to attend the support hearings, their support orders get worked out by default, in their absence. This then has cascading effects: incarcerated fathers are not present to provide accurate income information to the court so their support orders are frequently set quite high. Oftentimes, judges have no idea a father was incarcerated; they see them as absentee deadbeats and come down hard on them. Courts are also more likely to apply the maximum retroactive support to punish incarcerated fathers—with judges throwing the book at them with back support. Once it accrues, modification of this private debt is legally impossible in many states and practically impossible in others—since, even in modification-friendly states, appeals must usually be initiated while the parent is still incarcerated. Few fathers have the legal knowledge to carry this off; even fewer have it together enough to obtain the necessary financial affidavits and negotiate court dynamics from prison. Add to this the interest that states charge on all debt, and it becomes clear how the average father in my sample owed \$36,500 in back support.

Indeed, this is exactly what happened to LeRoy James. Figure 1 illustrates how it occurred. As with so many men, public assistance payback drew LeRoy into the child support system. Because he was incarcerated, his child support order was set by default, with little information about his income. Since Florida considers incarceration voluntary unemployment, his order was set at the minimum wage, or \$352/month. In his absence, the court unilaterally set

the maximum amount of retroactive support, dating back to his kids' third birthday. So within his first year doing time, LeRoy's debt was over \$20,000. It then increased by \$352/month during his 10-year sentence. With the interest, his grand total exceeded \$70,000. Unaware he could only apply for a modification while incarcerated, LeRoy left prison with no legal recourse to adjudicate his debt—so his arrears continued to haunt him 15 years later.

It is impossible to overstate the toll that this kind of debt takes on fathers like LeRoy. As I have argued elsewhere, it complicates and undermines the reintegration process on many levels (Haney forthcoming). Most generally, it puts men on rollercoaster of arrears and punishment. In interviews, men described their post-prison lives as a series of ups and downs. Staying afloat and out of jail was always challenge, but there were times of upswing. Like when they secured a second low-wage job, which allowed them to get current on their child support payments. Or when they scored a coveted job placement, which gave them hope of being able to pay off their debt. Or when they found a stable partner, which offered a much-needed financial cushion. For a while, they would start fulfilling their financial obligations. Then something would happen. They would get tripped up by a legal, bureaucratic, or personal barrier. They would teeter on the edge, eventually falling behind on their payments and ending up back in the red.

As they went through these cycles, incarcerated fathers reported feeling depressed and desperate. They reflected on their futures with despair: as Table 3 demonstrates, even those who could stay current on their child support and arrears payments were looking at 20-30 years before those debts would be paid off. During those years, as Table 4 shows, a majority of fathers could look forward to extreme hardship making ends meet. The enormity of what they owed, combined with their limited job options, left many feeling hopeless and overwhelmed. As Jose, a Los Angeles father of two, explained to me as he pulled out that infamous letter:

“I’m sorry it’s all ripped up...I got so upset when I read it. I lost my temper. Here I am just out of prison and doing everything right. I got a good job with the city...I am living with my mom so I can see my kids. Then I get this letter from child support. How am I ever going to pay this? It gives me so much stress to think of it... how much I owe.”

This sense of despair and defeat then spilled onto their parenting. This is one way that child support debt differs from other criminal justice debt we know weighs down former-offenders in the reentry process (Harris, Evans and Beckett 2010; Harris 2016). Child support debt impinges on men’s identities and practices as parents. Unlike other legal debts, there are emotional consequences to this one. When combined with the parental consequences of prison, some men just gave up—they were picked off, as fathers, through their struggle with child support debt. These men basically surrendered as fathers, disappearing from their kids’ lives. But the majority of fathers I encountered in both my interviews and court observations still tried to remain in the parenting game. Although most ended up doing so by replicating the rollercoaster of their lives with their kids—going through cycles of engagement and retreat as parents.

When things were on the upswing, men reported seeing their kids and being present in their lives. They described coming out of prison ready to reunite with their kids and make up for lost time. Later, if they were able to get on track with their child support, they’d surface in their kids’ lives with renewed optimism. When things were going well, they engaged with their kids. If they felt strong, they were present for them; if they felt confident, they connected to them. And, perhaps most importantly, if they had money at their disposal, they reached out to them. Many formerly-incarcerated fathers described how their childrearing cycles were propelled by funds: they would go see their kids as soon as they got paid so they could take them out and buy them things—or, as Murray put it, “when I could be a real daddy to them.” As he elaborated:

“I just couldn't say no to my babies whenever they wanted something. Was I gonna say: ‘Go get the money from the men down in Tallahassee?’ Whenever I saw them, they asked for stuff. I could stop seeing them or I had to get them stuff... to feel like a daddy.”

But these periods on the upswing could be short-lived. Eventually, most men would hit another snag or get entangled in a new legal snafu. At those times, when things were on the downswing, they'd retreat. They did so out of embarrassment at the thought of their kids seeing them down and out yet again. They did so out of regret for having chosen to pay what money they did have to the court, leaving them nothing to spend on their kids. They did so out of a sense of failure because sometimes things were going so badly they couldn't meet anyone's demands. So they went underground; they went off the parenting grid. And yet this survival strategy would have serious consequences, for children and fathers alike.

Death by Debt Enforcement

Child support debt does not go away if a father goes underground. Nor does it just sit there. It accumulates, rapidly and comprehensively. It also carries a series of penalties that draw parents into new spheres of surveillance and enforcement. States have at their disposal an arsenal of enforcement tools, which they pull out quickly and relentlessly. Child support enforcement follows something of a trajectory. It begins with the interception of funds, the most common of which is wage garnishment. These are mandated at the federal and state level—done automatically, in a centralized fashion according to fixed state guidelines. States vary in terms of how much income can be withheld, with most garnishing up to 65 percent of the obligator's wages if arrears are involved (Meyer and Warren 2011; Brito 2012). For parents without formal employment, there are other garnishments and penalties. At the federal level, these include intercepting tax refunds and unemployment compensation; at the state level, they include freezing bank accounts, issuing liens against property, and reporting debt to credit agencies.

Next in the arsenal of enforcement tools are non-financial civil punishments, often called “remedial” sanctions. Ostensibly, they are used to pressure parents into paying current and back support—but, in reality, they are simply punitive. These include the revocation of passports, which happens automatically at the federal level when back support reaches \$5000, and the suspension of drivers’ licenses and professional licenses. For instance, Florida automatically revokes drivers’ licenses when back support reaches \$400 (FOSCA 2012). These suspensions were so common that 85% of the Florida fathers I interviewed had their licenses suspended.

Finally, the last enforcement tool is perhaps the most serious: the contempt action, or violation order. This is when a parent is deemed non-compliant and in contempt of court, which can make the legal sanction criminal. The process is highly discretionary since it is up to the court to decide when non-compliance is willful contempt.⁸ It is also up to the court to set the conditions of remediation—that is, if a parent can “purge” himself of contempt through financial payoffs, employment, or participation in mandated state programs. And there is one central way to mandate a purge: jail time. In effect, having child support debt can get a parent sent to jail.⁹

In this way, critical parts of the enforcement process occur in court. It is here that many penalties are determined and enacted. And struggled over since child support courts are spaces of discretion: Is a parent deadbeat or deadbroke? Is he being willfully neglectful? Will he be corrected through a fine, a program, a job, or jail? As these issues are adjudicated, child support courts can also become spaces of humiliation: men are brought in and interrogated as if they have committed new crimes. They are approached with suspicion and contempt by judges and state lawyers. They are assumed to be liars, cheaters, and deadbeats. It is thus up to them to prove otherwise, which is not always easy for formerly-incarcerated fathers. And, as this all gets worked out, child support courts frequently devolve into spaces of punishment: Judges lecture

men about the meaning of fatherhood. They instruct men that good fathers are breadwinning fathers. They outline a list of all men's failures as parents. And they insist, over and over again, that the only way men can redeem themselves as fathers is to work and pay their support on time. The stakes are high in these battles; the outcomes are enormously consequential. Appearing the wrong way, or saying the wrong thing, can lead to new financial or civil penalties—or, even worse, a finding of criminal contempt, which comes with jail time.

Not surprisingly, these enforcement policies and practices exacted their own toll on men's post-prison reintegration. Most generally, they added another level to the rollercoaster of debt and punishment these men were already on. While on their downward spirals, men could accumulate new penalties—sanctions that could then exacerbate their downward spirals. For example, inflexible wage garnishments made getting by economically very difficult. As Table 4 reveals, the average incarcerated father lucky enough to secure a stable low wage job was left with \$485/month to live on after paying his on-going support and arrears. This is partly why so many men slipped into the informal economy, which gave them the flexibility to redirect funds where they were needed. Moreover, the other sanctions made managing poverty difficult: With their bank accounts seized, fathers were unable to save funds safely; with their unemployment compensation withheld, fathers were unable to get through bouts of job loss; and with their credit tarnished, fathers were unable to use credit to make ends meet. And then there was jail time, which undermined fathers' work lives and social ties in predictable ways—pulling men out of reciprocal relationships without warning and thus making them appear unreliable and erratic.

These sanctions and punishments then had their own effects on men's relationships to their kids. At the logistical level, they created new obstacles to parenting. All of the monetary garnishments restricted fathers' discretionary spending on their kids. Those who were working

often reached the end of the month without the money to entertain their children. If their court dates fell late in the month, fathers were often in trouble. “If you take my last \$20, I won’t be able to do anything with my kids when I see them today” a father once explained as Judge Matthews had the court bailiff go through his wallet and turn over all the money he had on him.

What’s more, men described the drivers’ license revocation as the penalty that did them in: without the ability to drive, these fathers had a hard time getting to their children regularly and on time, especially in car-centric states like Florida and California. Even if they found ways to reach them, they felt restricted in what they could do with them or where they could go with them without a car. As Mario, a Miami father of two, perfectly summed up the logistical barriers:

“It just makes no sense. He [the judge] yells at me to work, work, work. But then they take my license away. I haven’t had a license in 7 years. Who’s gonna hire me if I can’t drive? If I’m always late getting to work cause of the buses?...And what about my kids? How could I get to see them? Where could I take them? Somewhere on the bus? Please, I’m not gonna do that. I have a little dignity left.”

Finally, as Mario suggests, there were also personal costs. With everything from their bank accounts to their cars taken away, fathers can feel their dignity threatened. With repeated judicial lectures about their failures as parents, fathers can feel even more embarrassment and guilt. With their parental bonds reduced to how much child support they can pay on time, fathers can feel unappreciated as caretakers. Indeed, just as men described how finances propelled their cycles of closeness and retreat from their kids, I observed debt enforcement having a similar effect: it prompted some men to go underground, and off the parenting grid, yet again. So, in the end, one wonders about the ultimate outcome for men and children. Has the carceral state created the kind of fathers it feared—unreliable and erratic fathers in need of discipline and punishment? Has it left kids riding rollercoasters of parenting and cycles of engagement and retreat? Has it robbed them of the sense that they are consistently secure and cared for by their fathers?

Familial Death and the Penal State

On a Saturday afternoon in 2015, Walter Scott made national news when he was shot and killed while running from a police officer in South Carolina. The public outrage over his death came largely from the video recording of it, which documented how a routine traffic stop ended with Scott shot in the back. Often overlooked were those aspects of Scott's life that fell outside the camera lens: all the judicial lectures, lost jobs, arrest warrants, and jail time that Scott experienced because of his failure to pay child support. Indeed, on that day he was running from a child support warrant which would have sent him back to jail yet again for failure to pay. While not caught on camera, all of those smaller, familial deaths were surely weighing heavily on him as he ran from police—and, this time, to his actual death.

This paper highlighted the experiences of the many fathers who, like Scott, spent much of their lives behind bars and then “on the run.” As incarcerated fathers, they struggled to survive in prison and to reintegrate after prison—while living at the intersection of the criminal justice and child support systems. Instead of examining these men as the conduits through which the effects of prison spill onto others, I explored their embeddedness in larger state systems. From this, I revealed how those systems dealt a series of deathblows to their familial lives, especially to their lives as fathers. These deathblows happened through the bracketing and the punishing of men as parents. While in prison, fathers experienced an erasure of their paternal roles. After prison, they experienced the reduction of those roles to their material contributions, which then saddled them with enormous debt and punished them for failure to repay it. At neither moment were men engaged as committed parents—or even as potentially committed parents. Instead, their paternal identities were dismissed and undermined, which led many to opt out of parenting and become precisely kind of father the system was prepared to govern: erratic, cyclical, and inconsistent.

This familial death is not an abstraction: real policies and practices underlie and sustain it. As with civil and economic death, there are concrete reforms that can halt the familial one. Indeed, many of them are policies that other countries, particularly those in Europe, already enact to ensure prisoners' familial connections. Prison policies can be reformed to allow for, and even encourage, prisoners' contact with their children. While the 2006 European Prison Rules and CPT guidelines stress the maintenance of family ties, perhaps US penal policy can at least commit to not actively undermining them. More generally, there needs to be a rethinking of why U.S. prisons are such brutal, humiliating spaces that so many men refuse to bring their kids into them. Finally, prison-debt pipeline must be re-routed. One route would be through reforms that forbid states from defining incarceration as voluntary unemployment, which could set limits on how much child support can accrue during imprisonment (Turetsky 2008).¹⁰ Another would be reforms to address the back end, by making retroactive debt modification possible so fathers can negotiate down their debt (Camett 2011). Yet another would be to use 13th Amendment jurisprudence to challenge incarceration as a method of child support enforcement, thus halting the debt to re-imprisonment cycle (Zatz 2016).

Policy reforms like these would go a long way in halting men's familial death. But, to reverse a common cliché: for there to be a way, there must first be a will. And this is largely what is lacking. Were these men's familial lives and connections respected, there might be more concern over their death. In our interviews, incarcerated fathers made this point repeatedly, asking to be recognized as caretakers—and not as failed fathers, labor market rejects, and broken “work machines.” They asked not to be held to outdated parenting ideals that reduced fatherhood to breadwinning. And they asked to stop being pushed into, and punished through, precisely those fatherhood standards they were least able to meet. While their requests may seem simple,

they will arguably be more difficult to secure than the most ambitious policy reforms—since they necessitate a profound shift in how poor men with criminal records are viewed and valued as fathers. Yet such a rethinking is precisely what must occur in order to bridge the yawning gap that separates state policy and law from the lives they govern.

Table 1: Sample Demographics, 125 Formerly-Incarcerated Fathers

Sample Characteristics	Number N=125	Percent
Marital Status		
Never Married	66	53
Divorced/Separated	47	37
Married	12	10
Number of Children		
One	13	10
Two	27	21
Three	28	22
Four or more	57	46
Resides with:		
Alone	32	25
Partner	22	18
Relatives	24	19
Roommate/Friends	15	12
Homeless	32	26
Income		
None	38	30
Less than \$10,000	55	44
\$10,000-\$20,000	20	16
\$20,000-\$40,000	7	5
\$50,000 or more	5	4
Time in Prison		
Less than 1 year	15	12
2-5 years	51	41
5-10 years	39	31
More than 10 years	20	16
Incarcerated for Child Support		
Yes	32	26
No	93	74

Table 2: Amount of Child Support Arrears

Amount Owed	Number	Percent
Less than \$5,000	15	12
\$5,000 to \$10,000	12	10
\$10,000-\$30,000	29	23
Over \$50,000	47	38
Don't Know	22	17

Table 3: Paying Off Child Support Debt (or not), with \$100/monthly payment

Time Period	Amount Owed without interest	Amount Owed with Interest**
First Year	\$36,500*	\$36,500
After 5 years	\$30,500	\$50,724
After 10 years	\$24,500	\$73,630
After 15 years	\$18,500	\$110,470
After 20 years	\$12,500	\$169,852
After 25 years	\$6,500	\$265,487
After 30 years	\$500	\$419,508

*Based on the average amount of arrears owed by fathers in all three states (Florida, New York, California). N=742

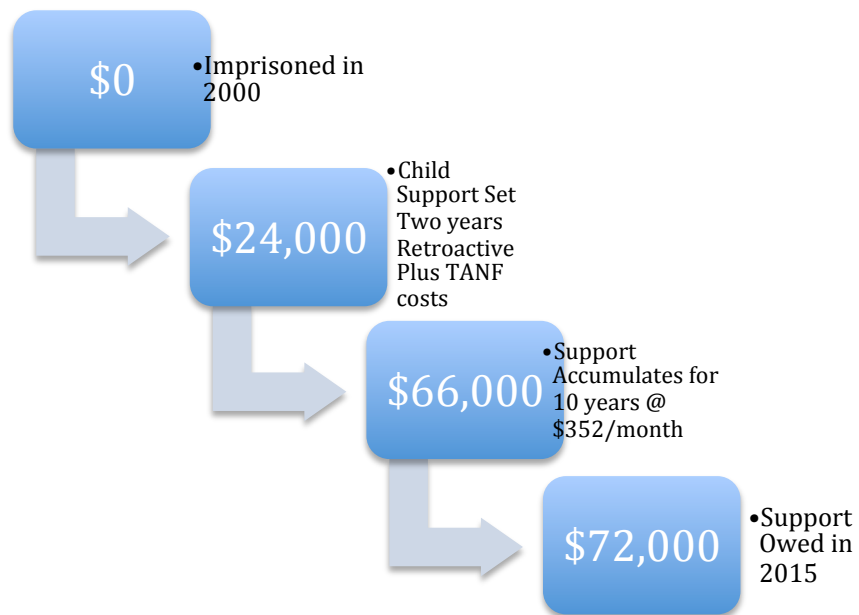
**Based on the average interest rate charged by states (10%), assessed yearly.

Table 4: Making Ends Meet with Child Support Debt

Average Monthly Wage (net)	\$844*
Average Arrears Payment	\$100
Average Child Support Payment	\$260
Remaining for Living Expenses	\$484

*Based on the average yearly income of \$10,128 reported by respondents, which is consistent with Western's (2006) wage estimates for formerly-incarcerated men (converted to 2016 dollars). N=125.

Figure 1: How Two Years of Public Assistance Became Fifteen Years of Child Support Debt



¹ The data used in this paper are drawn from a multi-method study of incarcerated fatherhood, which included three main types of data. First, I conducted an analysis of national legal patterns through which criminal justice connected to child support enforcement. Here I tracked policies in all 50 states related to three issues: child support order establishment, modification, and enforcement. I coupled this with an in-depth study of the policies and politics of three states—New York, Florida, and California. I chose these states since they hold a large percentage of the nation’s arrears but take different approaches to incarcerated fathers. These states then became the focus of my qualitative analysis.

Second, I combined this legal analysis with a three-year ethnographic study of a key site of incarcerated fatherhood: child support courts. This fieldwork was grounded in the three case study states (Florida, New York, and California) and in two locales in each state (Jacksonville, Miami, Brooklyn, the Bronx, Los Angeles, and Oakland). Here I tracked the processes of child support adjudication. Since few states separate out different types of child support cases, I observed all types of support cases. In total, I observed 1200 child support cases, with roughly 400 cases in each state. The one exception is New York City, which separates support cases involving public assistance and incarcerated parents. Because of the relevance of this population for my study, I did a targeted sub-study of 50 New York cases involving the incarcerated. For all other states, I observed the full docket of child support courts.

In order to probe further into this lived experience, I collected a third type of data: 125 qualitative interviews with formerly-incarcerated fathers with child support debt. My interview sample was drawn from the three case study states, and five locales within them—and evenly distributed among these states and locales. I recruited my subjects from the criminal justice and child support systems. In order to balance the sample, I recruited equal numbers of men from prisoner re-entry programs, offender registration offices, child support programs, and legal aid offices. This resulted in a diverse sample of fathers, both in terms of their experiences and backgrounds. Table 1 includes the demographic breakdown of my sample, which ended up being quite representative of both formerly-incarcerated fathers and men with child support arrears in general (Sorenson, Sousa and Schaner 2007; Western, Braga, Davis, and Sirois 2015).

² Others include Baltimore’s Parents in Prison, which works out of men’s and women’s facilities, Texas’s PATCH (Papap and Their Children), and Vermont’s Nurturing Fathers Program. For more on these state prison programs, as well as a list of community-based programs, see Vera Institute (2001).

³ The corresponding percentages for female inmates are 57% with no visits and 22% with at least monthly visitation.

⁴ This debt is federally mandated; states cannot decide to allow parents to opt out of it. But the rate of payback can vary by state and type of assistance.

⁵ Custodial parents cannot receive public assistance (TANF) and child support at the same time. In fact, child support courts often try to get women to replace public assistance with private child support orders—which they are not always successful at.

⁶ That is, in some states it goes back as far as the birth of the child, while in others it can go back a set number of years. Yet in all states, the amount of this retroactive debt is calculated according to the non-custodial parent’s imputed income. So even if non-custodial parents had little income in the preceding years due to incarceration, they are charged retroactive support as if they did.

⁷ For the most recent list of which states view incarceration as in/voluntary employment, see Meyer and Warren 2011. It is interesting that there is no universal standard here. For instance, in *The State of Oregon v. Vargas*, the California Supreme court ruled that because incarcerated parents involuntarily have no opportunity to work, their public orders should be set at \$0. New York State recently adopted the same stance. But other states have ruled that criminal behavior be viewed as “voluntary,” so imputed income must be calculated following the usual child support guidelines. Importantly, federal law forbids the same to be done for the “private” debt owed directly to custodial parents.

⁸ The process of determining contempt is complex and varies by state. States differ in terms of how they determine parents’ unwillingness to pay, as well as their standards of due process and legal representation. For instance, some states have clear standards for assessing intent and willfulness, while others leave this largely to judicial discretion. Some states have clear due process standards, requiring full and unambiguous notification of the accusation of contempt, while others apply quite lax standards for notification. Perhaps most importantly, states are split in whether there is a right to appointed counsel in a child support contempt case—some require it (New York, California) and others deny it. Indeed, in *Turner v. Rogers*, the US Supreme Court ruled in 2011 that the due process clause did not mandate legal counsel in support proceedings, even when imprisonment was at stake. For more on how states come out on these dimensions, see OCSE (2006) and Solomon-Fears, Smith and Berry (2012).

⁹ This outcome has received considerable scholarly and media attention, given how it harkens back to the debtor’s prison. Since no reliable national-level data exist on how often imprisonment is used to punish child support, researchers have been left to guesstimate. For instance, Zatz (2016) approximates that 15% of all African American fathers have been incarcerated for non-payment of child support. In my sample, the percent was even higher, with over 25% of my respondents having served jail time for child support. These rates also vary across states and among locales. In some states, it is standard practice to incarcerate fathers for non-payment—like in Florida. Indeed, close to 40% of my Florida respondents had done jail time for child support, while it was under 20 percent in California and New York.

¹⁰ In fact, one of these scholars, Vicky Turetsky, was Obama’s “child support czar”—and instrumental in shifting the federal focus from a “welfare cost recovery” to a “family support” program and in trying to outlaw the “voluntary unemployment” classification. She was unsuccessful with the latter reform.

REFERENCES CITED

- Arditti, Joyce. 2012. *Parental Incarceration and the Family*. New York: NYU Press.
- Bloom, Barbara and David Steinhart. 1993. "Why Punish the Children? A Reappraisal of the Children of Incarcerated Mothers in America." Report, National Council on Crime and Delinquency, San Francisco.
- Bosworth, Mary. 1999. *Engendering Resistance: Agency and Power in Women's Prisons*. New York: Routledge.
- Braman, Donald. 2004. *Doing Time on the Outside: Incarceration and Family Life in Urban America*. Ann Arbor, MI: University of Michigan Press.
- Brito, Tonya. 2012. "Fathers Behind Bars: Rethinking Child Support Policy Toward Low Income Fathers and their Families." *Journal of Gender, Race, and Justice* 15: 617-635.
- Bureau of Justice Statistics. 2014. "Prison Inmates at Midyear 2013." Report, US Department of Justice, Washington, DC.
- Cammett, Ann. 2011. "Deadbeats, Deadbrokes, and Prisoners." *Georgetown Journal of Law and Policy*. 18: 127.
- Cancian, Maria, Daniel Meyer, and Eugene Han. 2011. "Child Support: Responsible Fatherhood and the Quid Pro Quo." *The Annals of the American Academy of Political and Social Science*. 635: 140-161.
- Center for Law and Social Policy. 2005. "Every Door Closed: Facts about Parents with Criminal Records." Report, Community Legal Services, Washington, DC.
- Clear, Todd. 2009. *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Communities Worse*. New York: Oxford.
- Comfort, Megan. 2008. *Doing Time Together: Love and Family in the Shadow of the Prison*. Chicago: University of Chicago Press.
- , 2016. "A Twenty-Hour-a Day Job: The Impact of Frequent Low-Levels Criminal Justice Involvement on Family Life." *The Annals of the American Academy of Political and Social Science*, 665: 63-79.
- DeFina, Robert H., and Lance Hannon. 2010. "The Impact of Adult Incarceration on Child Poverty: A County-Level Analysis, 1995-2007." *Prison Journal* 90(4):377-96.
- Edin, Kathryn and Timothy Nelson. 2013. *Doing the Best I Can: Fatherhood in the Innercity*.

-
- Berkeley: University of California Press.
- Enos, Sandra. 2001. *Mothering from the Inside: Parenting in a Women's Prison*. Albany, NY: SUNY Press.
- Ferraro, Kathleen, and Angela Moe. 2003. "Mothering, Crime, and Incarceration." *Journal of Contemporary Ethnography* 32(1): 9-40.
- Flavin, Jeanne. 2009. *Our Bodies, Our Crimes: The Policing of Women's Reproduction in America*. New York: New York University Press.
- Garland, David, ed. 2001. *Mass Imprisonment: Social Causes and Consequences*. London: Sage.
- Geller, Amanda, Irwin Garfinkel, C.E. Cooper, and R.B. Mincy. 2009. "Parental Incarceration and Child Wellbeing: Implications for Urban Families." *Social Science Quarterly*, 90, 1186-1202
- Geller, Amanda, Irwin Garfinkel and Bruce Western. 2011. "Paternal Incarceration and Support for Children." *Demography*. 48: 25-47.
- Gottschalk, Marie. 2015. *Caught: The Prison State and the Lockdown of American Politics*. Princeton, NJ: Princeton University Press.
- Griswold, E.A. 2001. *Child Support in the Criminal Justice System*. Center for Policy Research Working Paper. Denver, CO.
- Hagan, John and Holly Foster 2012. "Children of the American Prison Generation: Student and Spillover Effects of Incarcerating Mothers." *Law & Society Review* 46(1): 37-69.
- Haney, Lynne. Forthcoming. *Incarcerated Fatherhood: Punishment, Debt, and the Paternal Politics of Poverty*. Berkeley, Ca: University of California Press.
- . 2010. *Offending Women: Power, Punishment, and the Regulation of Desire*. Berkeley: University of California Press.
- . 2013. "Motherhood as Punishment: The Case of Parenting in Prison." *Signs*, Fall 2013.
- Harris, Alexis. 2016. *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*. New York: Russell Sage Foundation
- Harris, Alexis, Heather Evans, and Katherine Backett. 2010. "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States." *American Journal of Sociology*, 115, 3: 1753-1799.
- Haskins, Anna. 2014. "Unintended Consequences: Effects of Paternal Incarceration on School Readiness and Later Special Education Placement." *Sociological Science*. 1: 141-58.

-
- Kruttschnitt, Candace. 2010. "The Paradox of Women's Imprisonment." *Daedalus* 139: 32-42.
- LaVigne, Nancy, Rebecca Naser, Lisa Brooks, Jennifer Castro. 2005. "Examining the Effect of Incarceration and In-Prison Family Contact on Prisoners' Family." *Journal of Contemporary Criminal Justice*. 21: 314-35.
- LeBaron, Genevieve, and Adrienne Roberts. 2010. "Toward a Feminist Political Economy of Capitalism and Carcerality." *Signs* 36(1): 19-44.
- Love Margaret, Jenny Roberts, and Cecilia Klingate. 2014. *Collateral Consequences of Criminal Conviction: Law, Policy, and Practice*. Eagan, MN: Thomson Reuters.
- Meyer, Daniel and Emily Warren. 2011. *Child Support Orders and the Incarceration of Noncustodial Parents*. Institute for Research on Poverty, University of Wisconsin, Madison, WI.
- Millan-Lara, Armando. 2014. "Public Emergency Room Overcrowding in the Era of Mass Imprisonment." *American Sociological Review*, 79: 5, 866-887.
- Miller, R., & Alexander, A. (2016). "The Price of (carceral) Citizenship: Punishment, Surveillance and Social Welfare Policy in an Age of Carceral Expansion." *Michigan Journal of Race and Law*, 21(2), 291-311.
- National Conference of State Legislatures (NCSL). 2016. "Child Support and Incarceration." Washington, DC: National Conference of State Legislatures. Available from (<http://www.ncsl.org/research/human-services/child-support-and-incarceration.aspx>). Accessed May 3, 2016.
- Office of Child Support Enforcement [OCSE]. 2006. *Incarceration Reentry and Child Support Issues: National and State Research Overview*. Washington DC.
- . 2013a. Changing a Child Support Order in Your State: Florida. Washington, DC: Department of Health and Human Services, Administration of Children and Families, Office of Child Support Enforcement. Available from (https://www.acf.hhs.gov/sites/default/files/programs/css/fl_cs_order.pdf). Accessed May 3, 2016.
- . 2014. "Major Change in Who is Owed Child Support Arrears." *The Story Behind the Numbers*, Child Support Fact Sheet #4. Washington, DC: Department of Health and Human Services, Administration of Children and Families, Office of Child Support Enforcement. Available from (<http://www.acf.hhs.gov/programs/css/resource/major-change-in-who-is-owed-child-support-arrears>). Access November 24, 2015.

-
- , 2016. *Preliminary Annual Report FY 2015*. Washington, DC: Department of Health and Human Services, Administration of Children and Families, Office of Child Support Enforcement. Available from http://www.acf.hhs.gov/sites/default/files/programs/css/fy2015_preliminary.pdf. Accessed May 3, 2016.
- Patterson, Elizabeth. 2008. "Civil Contempt and the Indigent Child Support Obligator: The Silent Return of Debtors' Prison." *Cornell Journal of Law and Public Policy* 18.
- Pearson, Jessica. 2004. "Building Debt while Doing Time: Child Support and Incarceration." *Judges' Journal*. 1:43.
- Sampson, Robert. 2011. "The Incarceration Ledger: Toward a New Era in Assessing Societal Consequences." *Criminology and Public Policy*, 10: 819-828.
- Schnittker, Jason and Andrea John 2007. "Enduring Stigma: The Long-Term Effects of Incarceration on Health." *Journal of Health and Social Behavior*. 48:1, 115-130.
- Schnittker, Jason, Michael Massoglia and Christopher Uggen. 2011. "Incarceration and the Health of the African American Community." *Du Bois Review* 8:1, 133-141.
- Seymour, Cynthia, and Creasie Finney Hairston, eds. 2001. *Children with Parents in Prison: Child Welfare Policy, Program, and Practice Issues*. New Brunswick, NJ: Transaction.
- Sorenson, Elaine, Liliana Sousa and Simon Schaner. 2007. *Assessing Child Support Arrears in Nine Large States and the Nation*. The Urban Institute. Washington, DC. http://aspe.hhs.gov/_/topic/subtopic.cfm?subtopic=374.
- Sorensen, Elaine, Heather Koball, Kate Pomper and Chava Zibman. 2003. *Examining Child Support Arrears in California: The Collectability Study*. California Department of Child Support Services. Sacramento, Ca.
- Sudbury, Julia. 2005. "Introduction: Feminist Critiques, Transnational Landscapes, and Abolitionist Visions." In *Global Lockdown: Race, Gender, and the Prison-Industrial Complex*, xi-xxviii. New York: Routledge.
- Tapia, Ruby C. 2010. "Introduction: Certain Failures: Representing the Experiences of Incarcerated Women in the United States." In *Interrupted Life: Experiences of Incarcerated Women in the United States*, ed. Rickie Solinger, et al. Berkeley: University of California Press.
- Turetsky, Vicki. 2000. *Realistic Child Support Policies for Low Income Fathers*. Center for Law and Social Policy. Washington DC.
- , 2007. "Staying in Jobs and Out of the Underground: Child Support Policies that Encourage

-
- Legitimate Work.” Center for Law and Social Policy. Washington, DC.
- Turney, Kristen. 2013. *Liminal Men: Incarceration and Family Instability*. Center for Research on Child Wellbeing Working Paper. Princeton University.
- Turney, Kristin, Jason Schnittker, and Christopher Wildeman. 2012a. “Those They Leave Behind: Paternal Incarceration and Maternal Instrumental Support.” *Journal of Marriage and Family* 74:1149-1165.
- , 2012b. “As Fathers and Felons: Explaining the Effects of Current and Recent Incarceration on Major Depression.” *Journal of Health and Social Behavior* 53:467-483
- Wacquant, Loïc. 2009. *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham, NC: Duke University Press.
- Wakefield, Sara and Christopher Wildeman 2016. *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality*. New York: Oxford.
- Wakefield, Sara, Hedwig Lee, and Christopher Wildeman. 2016. “Tough on Crime, Tough on Families? Criminal Justice and Family Life in America.” *The Annals of the American Academy of Political and Social Science*, 665: 8-21..
- Western, Bruce. 2006. *Punishment and Inequality in America*. New York: Russell Sage.
- Western, Bruce and Christopher Wildeman. 2009. “The Black Family and Mass Incarceration.” *The Annals of the American Academy of Political and Social Science*, 621, 221-242.
- Western, Bruce, Anthony Braga, Jaclyn Davis, and Catherine Sirois. 2015. “Stress and Hardship after Prison.” *American Journal of Sociology* 120:5, 1512-1547.
- Wildeman, Christopher. 2009. “Parental imprisonment, the Prison Boom, and the Concentration of Childhood Disadvantage.” *Demography*, 46, 265-280.
- Wildeman, Chistopher and Christopher Muller. 2012. “Mass Imprisonment and Inequality in Health and Family Life.” *Annual Review of Law and Social Science* 8: 11-30.
- Zatz, Noah. 2016. “A New Peonage? Pay, Work, or Go to Jail in Contemporary Child Support Enforcement and Beyond.” *Seattle University Law Review* 39:3.