

PATTERNS OF CRIMINAL CONVICTION AND  
INCARCERATION AMONG MOTHERS OF  
CHILDREN IN FOSTER CARE IN NEW YORK  
CITY

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## Executive Summary

Since 1990, the number of incarcerated women in the United States has increased by more than 110 percent. The incarceration of women has important implications for child welfare agencies since the majority of female inmates are mothers of minor children, and many are single parents. Maternal incarceration may affect the number of children entering foster care, the length of time they spend in care, and the agencies' plans to reunite families or identify other permanent homes for the children. Since few, if any, large-scale studies trace the criminal histories of mothers of foster children, the New York City Administration for Children's Services and the Vera Institute of Justice examined patterns of arrest and incarceration among mothers of children who entered foster care in 1991 and 1996, matching child welfare and criminal justice records of city and state agencies.

About 37 percent of the 14,765 mothers in the study had been arrested and convicted at least once in their lives, primarily for misdemeanors such as prostitution and drug possession. Only eight percent of these arrests involved violent felonies, and only three percent involved child victims. The mothers' arrests, particularly for drug offenses, increased in the years before the children were placed, rose sharply in the year of placement and in the subsequent year, and then remained at a high level. The mothers were more likely to be arrested and convicted in the 18 months after the child entered care than in the equivalent period before the placement.

Just over one-fifth of the mothers had been incarcerated at least once, and most of them spent time in jail, not prison. About ten percent of them had children in foster care during the time they were incarcerated, and most of the incarcerations occurred in the year after the child's placement, a pattern similar to that found for arrests leading to incarceration. Though these data refer to a small part of the overall population, they suggest that several hundred New York City children entering foster care each year have a mother who will be in jail or prison during some part of their stay in care. The timing of arrest, conviction and placement suggests that children are removed in the midst of a downward spiral in the mother's life that continues after the removal. This study suggests that once ACS has provided for the child's safety, it might improve the prospects for family reunification by using its case planning to focus more attention on the mother—especially on her need for substance abuse treatment.

## Acknowledgments

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## Introduction

From 1990 to 2000, the annual rate of growth of incarcerated women has averaged 8.1 percent, higher than the 6.2 percent average increase of incarcerated men. While the number of incarcerated men has grown 77 percent since 1990, the number of incarcerated women has increased 110 percent, according to a Bureau of Justice Statistics 2001 report. The rise in female incarceration has particular implications for children since an estimated 66 to 80 percent of incarcerated women are the primary caretakers of their minor children prior to arrest.<sup>1</sup> Thus, an apparent consequence of the increasing rate of incarceration among women is a rising number of children who are separated from their primary caregiver.

The incarceration of an abusive or neglectful parent may bring relief in some cases, but scholars generally agree that a parent's incarceration usually has far more adverse than positive effects on children.<sup>2</sup> A parent's absence alters a family's structure and dynamics, especially when the mother is incarcerated. In addition, a parent's incarceration usually brings more economic hardship for family members who are left to care for children.<sup>3</sup> Since arrest and incarceration disproportionately affect minority and disadvantaged communities, those communities may face increased challenges in caring for the children of prisoners.

The rates of conviction and incarceration among women also have implications for child welfare agencies. Removal of a primary caretaker raises the possibility that children may be placed outside the home, sometimes in foster care. This risk is increased if the primary caretaker is a single parent.<sup>4</sup> Most child welfare systems do not collect data on the involvement of mothers in the criminal justice system, and they typically do not have programs designed to address the special needs of children separated from their mothers in such situations. Police departments may have policies regarding the minor children of

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1 Bureau of Justice Statistics, *Special Report: Women in Prison* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1994); Cynthia Beatty, *Parents in Prison: Children in Crisis* (Washington, DC: Child Welfare League of America Press, 1997); Adele Beckerman, "Mothers in Prison: Meeting the Prerequisite Conditions for Permanency Planning," *Social Work* 39, no. 1 (January 1994): 9-14; Denise Johnston, "Child Custody Issues of Incarcerated Mothers," *The Prison Journal* 75, no. 2 (1995): 222-239.

2 John Hagan and Ronit Dinovitzer, "Collateral Consequences of Imprisonment for Children, Communities, and Prisoners," *Crime & Justice* 26 (1999): 121-162; Creasia Finney Hairston, "Family Ties During Imprisonment: Important to Whom and for What?" *Journal of Sociology & Social Welfare* 18 (1991): 87-104.

3 John Hagan and Ronit Dinovitzer, "Collateral Consequences of Imprisonment for Children, Communities, and Prisoners," *Crime & Justice* 26 (1999): 121-162.

4 B.E. Smith, S.G. Elstein, and the ABA Center on Children and the Law, *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated* (Washington, DC: ABA Center on Children and the Law, 1994).

people who are arrested, but police officers do not always inquire about an arrested person's children and their interpretations of existing policies may vary.<sup>5</sup>

Incarceration of a mother can create complications for the child welfare agency's family reunification policies. Although continued contact between parent and child is usually a necessary component of the family reunification process, arranging and supervising visits with incarcerated parents takes time and resources, and requires cooperation between child welfare and corrections agencies. Finally, the absence of parental involvement can ultimately result in the termination of parental rights.<sup>6</sup> The 1997 Adoption and Safe Families Act requires child welfare agencies to file a termination petition if a child has been in foster care for 15 of the most recent 22 months, unless it can document a compelling reason why that would not be in the child's best interest.<sup>7</sup>

Little research has been conducted on the association between mothers' criminal history and children's placement into foster care. Basic questions about the issue are unaddressed: What proportion of foster children have mothers who were ever convicted or incarcerated? What proportion of foster children have mothers who are incarcerated while they are in care? Does a mother's conviction or incarceration tend to precede or follow a child's placement into foster care? Do children's outcomes in the foster care system—their length of stay in care, the frequency of their placement changes, and their level of institutional care—tend to vary as a function of their mothers' criminal history? Finally, does a mother's incarceration make it more likely that her child will be adopted?

This report describes the results of a data match that compares child welfare records on foster children's biological mothers with criminal history records collected by state and local criminal justice agencies. The purpose of this study is to identify the rate of conviction and incarceration among mothers of foster children, to describe the events leading to conviction and incarceration, and to track the timing of parental convictions/incarceration and children's entry into foster care. Furthermore, this report includes our preliminary examination of the relationship between mothers' criminal history and children's experiences in foster care, including their level of care, absences without leave, and chances of being adopted.

The report is designed to provide policy makers with information that will help them make decisions about programs and policies to serve these families and to provide researchers with knowledge about the intersection of the child welfare and criminal justice systems.

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5 Tanya Krupat, "Still a Mother to Her Children: A Preliminary Look at Maternal Arrest in New York City," unpublished paper funded by Mathematica Policy Research, Inc., 1999.

6 Philip M. Genty, "Termination of Parental Rights Among Prisoners: A National Perspective," in *Children of Incarcerated Parents*, edited by Katherine Gabel and Denise Johnston (New York: Lexington Books, 1995).

7 P.L. 105-98, (codified at 42 USC §§ 670-679a).

## Methods

### Research Participants

The full study group includes two cohorts of biological mothers of foster children drawn from the Child Care Review Service (CCRS), a New York State data system that captures records of foster care and preventive services. The CCRS contains information that identifies all foster children and the relatives living with them at the time of their entry into the child welfare system. Although the CCRS has data on some fathers, most children in foster care come from female-headed, single parent families. The CCRS also includes data about children's movements within the foster care system, such as transfers from one placement to another; legal activities such as hearings and dispositions related to Article 10 abuse/neglect petitions; and other information not directly relevant to the current study. The CCRS data is linked with the Welfare Management System (WMS), which contains the social security numbers that are needed to match foster care data with records maintained by the New York State Division of Criminal Justice Services (DCJS).<sup>8</sup>

We restricted our analysis to mothers because women are generally the primary caretakers prior to a child's entry into foster care. Data on mothers is more readily available, and the CCRS/WMS data on the children's fathers is often not available. We selected two groups of biological mothers from the CCRS, one consisting of all mothers whose child or children entered foster care in calendar year 1991 and a second containing all mothers whose child or children entered foster care in fiscal year 1996.<sup>9</sup> This provided one recent cohort and another cohort that could be followed for a longer period. Crime rates, police staffing, and crime prevention strategies varied between these two times, as did child welfare policies and the characteristics of the two cohorts of children entering foster care.

*1991 Cohort.* For the 1991 cohort, we selected biological mothers of all children who entered foster care in the calendar year 1991, which had 13,920 foster care entries for 13,579 children (some children entered care more than once during the year). Of these entries, CCRS data were available for the mothers of 11,349 children. The cohort contained 8,897 parents, including 7,657 biological mothers. The median age of mothers in this cohort was 31 years, and 5 years for their children. Figure 1 displays the age distribution for children on the date that they first entered care. Close to half of the

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<sup>8</sup> We did not exclude from our sample mothers for whom we were unable to obtain a social security number. We produced social security information, where we had it, to DCJS. The social security number assisted in the matching process but matches were also obtained for mothers where we could not provide it, using various combinations of name and date of birth.

<sup>9</sup> The study group consists of children who entered care during the year, whether they were entering for a first time or reentering.

children were less than one year old, and another large grouping was early adolescents aged 11 to 15.

### Child Placement Statistics

The children who entered care in 1991 stayed in this foster care spell for an average of 1,056 days (or 2.89 years).<sup>10</sup> Most of the children were initially placed in foster boarding homes (54 percent) with the remainder evenly split between kinship care (24 percent) and congregate care (21 percent). Children initially placed in foster boarding homes were slightly younger than those placed in kinship care. As expected, children initially placed in congregate care were older still, with many having entered their teenage years.

*1996 Cohort.* For the 1996 cohort, we used New York City's fiscal year dates (July 1, 1996, to June 30, 1997), which allowed us to incorporate the most recent WMS records available when this research was conducted. The fiscal year 1996 entry cohort included 10,565 children who had available mother information in the CCRS, and at least one date of recorded entry into the foster care system between July 1, 1996, and June 30, 1997. There were a total of 12,679 foster care entries recorded in fiscal year 1996 for 12,269 children (the remaining entries, again, reflect additional entries for one child). A total of 7,128 biological mothers were matched with children in the entry cohort. The median age of mothers in the cohort was 34 and, for children, the median age was 7 years. The age distribution of children in the 1996 cohort was similar to that found for the 1991 cohort for children over the age of one, as seen in Figure 1. However, the 1996 cohort included substantially fewer infant children.

### Child Placement Statistics

The findings on the children's foster care variables are similar to those described for the 1991 cohort. Table 1 shows the age, ethnicity, religion, and marital status of mothers in the 1991 and 1996 cohorts. Both religion and marital status were unknown or missing for many mothers and were not included in later analyses.

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<sup>10</sup> We analyzed data on the children only for the time between their entry in 1991 or 1996 and the date of discharge. We did not analyze whether any of the children reentered care after the discharge.

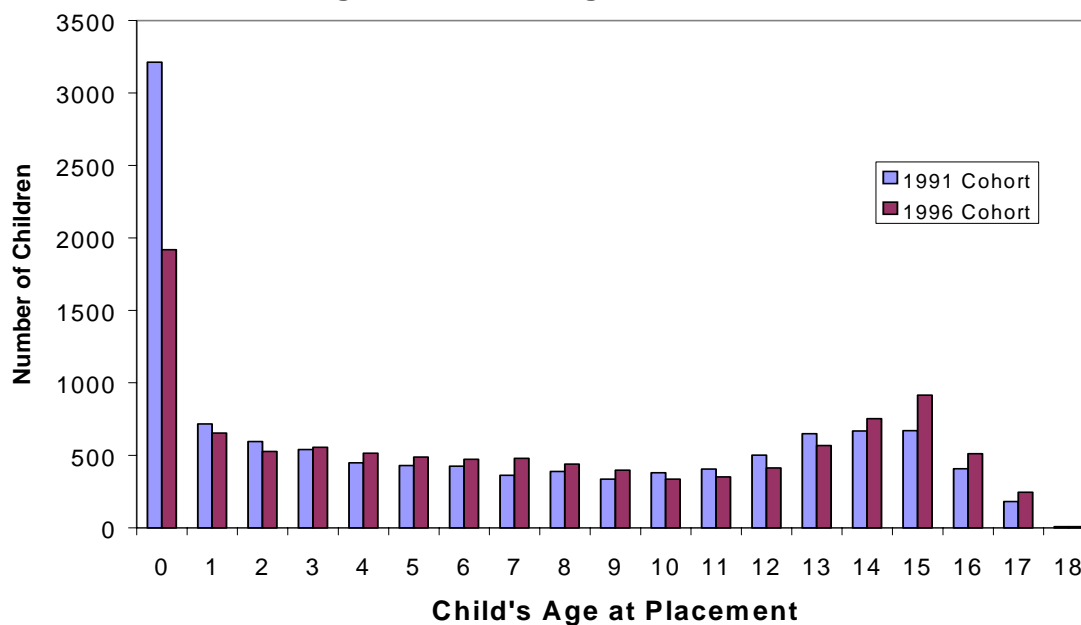


Table 1 : Characteristics of Mothers for the 1991 and 1996 Cohorts

|                                  | 1991 Cohort (N=7,657) | 1996 Cohort (N=7,128) |
|----------------------------------|-----------------------|-----------------------|
| <b>Age (years)</b>               |                       |                       |
| Mother's Median Age <sup>a</sup> | 31 (SD =8.39 )        | 34 (SD = 8.57)        |
| Child's Median Age <sup>a</sup>  | 5 (SD = 5.84 )        | 7 (SD = 5.64)         |
| Percent Children Male            | 50.2 (N = 5,697)      | 50.8 (N = 3,621)      |
| <b>Ethnicity (%)</b>             |                       |                       |
| White                            | 5.0                   | 3.3                   |
| Black                            | 55.2                  | 43.9                  |
| Hispanic                         | 20.1                  | 19.0                  |
| Asian                            | .5                    | .5                    |
| Other/Unknown                    | 19.3                  | 33.4                  |
| <b>Religion (%)</b>              |                       |                       |
| Catholic                         | 13                    | 9                     |
| Jewish                           | 1                     | 0                     |
| Protestant                       | 19                    | 11                    |
| Other                            | 2                     | 3                     |
| Unknown/None                     | 65                    | 77                    |
| <b>Marital Status (%)</b>        |                       |                       |
| Married                          | 5                     | 15                    |
| Single                           | 46                    | 71                    |
| Separated/Divorced               | 1                     | 3                     |
| Widowed                          | 0                     | 1                     |
| Missing                          | 48                    | 10                    |

<sup>a</sup> Median age is shown because the age distribution was not normally distributed.

**Figure 1: Child Age Distribution**



## Design and Procedure

*Matching CCRS and DCJS Data.*<sup>11</sup> A CCRS file including the biological mothers' name, age, date of birth, ethnicity, marital status, and social security number (when available in the WMS) was sent to DCJS for matching with individual arrest and sentencing histories. DCJS staff applied an established standardized matching technique developed for identifying a person's prior criminal history. The algorithm used various combinations of social security number, name, gender, race, and dates of birth to match criminal history data and CCRS/WMS data on mothers. Once matched, the DCJS data included criminal history variables as well as a New York State Identification Number (NYSID) for each individual in the sample who had an adult arrest history. Because NYSID numbers are assigned and then matched based on fingerprints obtained each time an individual is arrested, they provide a high degree of reliability.

DCJS data includes arrest charges, Uniform Crime Reporting charge categories, and flags indicating whether the charge was for an offense related to drugs, prostitution, weapons, child victimization, violent felony, or motor vehicles. DCJS matched the cohorts with their records of arrest charges, disposition charges, and sentencing information for each person's entire adult history (since age 18). We reduced the data set to information associated with

<sup>11</sup> See Appendix A for a more detailed description of the datasets referred to in this section.

the top charge for each event because DCJS sometimes returned information that included multiple charges for a given arrest event. This ensured that the data from DCJS would be compatible with the New York City Department Of Correction (NYC-DOC) data, which is also based on the top charge. The DCJS data include only those arrests that resulted in convictions. The matched files and NYSID data obtained from DCJS were then sent to NYC-DOC to obtain data on detention. NYC-DOC data includes data on admissions and release from jail, and unlike DCJS data, incorporates information on individuals detained but not sentenced, and has more accurate dates of admission and release for those who have their sentences commuted or secure work releases. None of our data included juvenile cases, which are sealed under New York State law.

## Measurement

### Measurement of Foster Care History

From the CCRS, we extracted the date of the child's placement, the level of care of that placement (kinship, foster boarding home, or congregate care), and the length of time spent in foster care before any discharge. In addition, the CCRS provided measures of the total number of transfers to new placements, and the number of AWOLs. We used the numbers of transfers and AWOLs as indications that the children had relatively difficult foster care experiences. As expected, for both the 1991 and 1996 cohorts, a child's age correlated positively with a shorter length of stay in foster care, a more institutional level of care, and the likelihood of being AWOL at some point in their foster care stay.

### Measurement of Maternal Arrest and Conviction

As noted earlier, we used records from DCJS to obtain data on each mother's complete history of arrest charges leading to a conviction, and the disposition charges associated with those convictions. Thus, references to "arrest" include only those arrests that led to convictions. Based on this data, we classified mothers into one of the following groups: no arrest, misdemeanor only, felony, or unknown charge. Those mothers classified in the felony group were charged either with one or more felony offenses or with both felony and misdemeanor offenses.

Classifying arrest history into meaningful groups is difficult. Dividing the sample into mothers who had *ever* been arrested and convicted versus mothers who had *never* been arrested and convicted meant grouping together mothers convicted many years ago with those who were convicted more recently. We reasoned that, compared to more distant arrest events, recent convictions are more likely to have an effect on children's well being.

Arrest and conviction data were available through December 1998 and included a maximum of 18 months following June 1997, which was the last possible date of entry into foster care for children in the 1996 cohort (fiscal year July 1, 1996, to June 30, 1997). We selected an 18-month window before and after each child's date of admission into care because we wished to examine the rate of maternal arrest in a comparable time frame before and after children entered foster care.

### Measurement of Maternal Incarceration

Most convictions do not result in incarceration in jail or prison, but incarceration carries implications that are more drastic. Measures of maternal incarceration were obtained from two sources. DCJS provided records on *any* history of sentencing, including time served before sentence and incarceration. DCJS records on prison sentences are more reliable (because it is a state level agency) than its records on local jail sentences. We

supplemented the latter with records from New York City’s Department of Correction (DOC) to obtain more reliable estimates of detention without sentencing, as well as city (jail) sentencing. An important caveat is that DCJS provides state-level incarceration data that is based on sentencing, whereas DOC provides data based on actual time served. To reconcile these differences in the two data sources, we assumed that the incarceration began on the date the individual was disposed (DCJS data does not include the sentence date) and we assumed that the individual served their minimum sentence.

DOC records provided data for each cohort on jail and detention records for up to three years before and three years after the target date—the date of the child’s placement into foster care. As detention and jail time are limited to a maximum of 12 and 15 months respectively, allowing three years before or after the child’s placement should capture the possible effects of local sentences and detention time on child outcome.

We elected to divide maternal incarceration into three groups based on the sentences women received: detention without sentence, jail/time served, and prison. This classification system was based on sentences or time served for all prior offenses within the time periods described above. When more than one sentence occurred, we grouped according to the most severe sentence. For instance, mothers who served jail time for one offense, but who had been sentenced to prison for another offense, were included in the “prison” group. We compared these three groups to mothers convicted but not incarcerated to control for any independent effect of maternal arrest on child outcome. We also calculated the total number of days that each mother was incarcerated, summing number of days in jail across all jail stays, and calculating the number of days in each prison sentence by multiplying the number of months in each sentence by 30 days.

## Results

### What is the Lifetime Conviction Rate of Mothers and What Are the Arrest Charges?

Arrest leading to conviction is a fairly common event in the lives of mothers with children in foster care. In the 1991 cohort, 39 percent of all mothers were arrested and convicted, as were 35 percent of mothers in the 1996 cohort. In each cohort, arrested and convicted mothers had a median of two arrests and convictions in their adult lifetime. In the 1991 cohort, mothers who were ever arrested and convicted were younger (30 vs. 32.2 years), had younger children (4.9 vs. 7.1 years), and were more likely to be black than Hispanic or white than mothers with no convictions.<sup>12</sup> The mean age at first conviction was 25.9 years in the 1991 cohort, and 25.8 in the 1996 cohort.

Table 2 shows the number and percent of mothers in the 1991 and 1996 cohorts who were arrested and convicted for misdemeanors and felony offenses since the age of 18. These figures indicate that the majority of convictions were for misdemeanor offenses. There was little difference in the number of mothers convicted solely for misdemeanors and the number of mothers with at least one felony conviction in their criminal history. However, those mothers with a felony conviction had more arrests that led to a conviction than those with only misdemeanors.

Table 2: Mothers' Aggregate Arrest Statistics, 1991 and 1996 Cohorts

| Cohort   | 1991           | 1996          |
|--|----------------|---------------|
| Entire Sample                                      | (n=7,657)      | (n=7,128)     |
| Ever Convicted                                     | 3,004 (39.2%)  | 2,483 (34.8%) |
| Number with Only Misdemeanor Charges               | 1,192 (15.6%)  | 1,091 (15.3%) |
| Number with at Least One Felony Charges            | 1,408 (18.4%)  | 991 (13.9%)   |
| Number with Unknown Charge/No Disposition          | 403 (5.3%)     | 401 (5.6%)    |
| Convicted Sub Sample                               | (n=3,004)      | (n=2,483)     |
| Total Convictions                                  | 16,461         | 11,598        |
| Total Misdemeanors                                 | 10,957         | 7,612         |
| Total Felonies                                     | 5,504          | 3,986         |
| Total Convictions for Misdemeanor Only Group       | 5,832 (35.4%)  | 4,365 (37.6%) |
| Total Convictions for at Least One Felony Group    | 10,155 (61.7%) | 6,755 (58.2%) |
| Unknown Arrest Charge or No Disposition Info Group | 474 (2.9%)     | 478 (4.1%)    |

<sup>12</sup> Note that for all of the analyses, the ethnicity variable included a category coded as 'Other/Unknown' and we also added all subjects for whom ethnicity data was missing to this category. When the analyses using the ethnicity variable were run without the 'Other/Unknown' category, the results were similar to those presented in all of the results shown in the report.

Table 3 shows a breakdown of convictions for each type of charge for the 1991 and 1996 cohorts. These results suggest that drug, prostitution, and theft/larceny charges account for the greatest proportion of arrest charges.

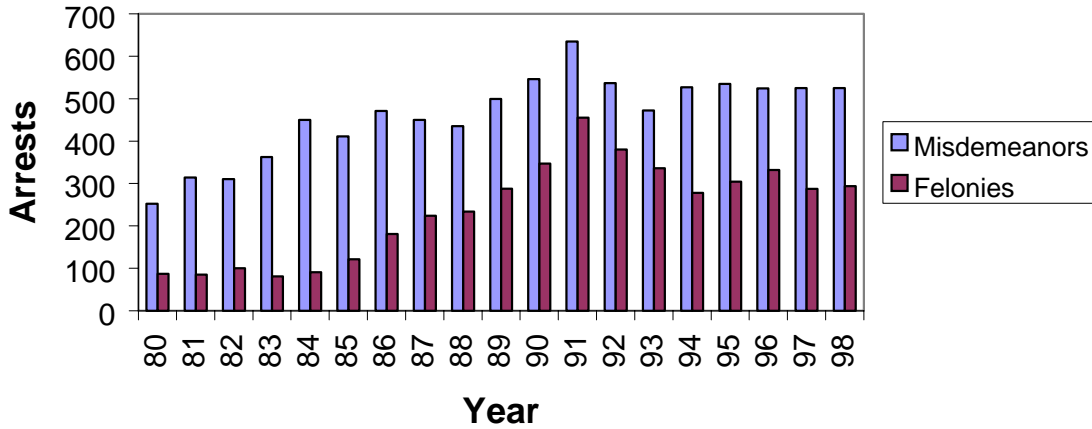
Table 3: Total Convictions for Mothers by Type of Charge, 1991 and 1996 Cohorts

| <b>Cohort</b>         | 1991          | 1996          |
|-----------------------|---------------|---------------|
| Mothers in Sample     | (n=7,657)     | (n=7,128)     |
| Number Ever Convicted | 3,004         | 2,483         |
| Total Convictions     | 16,461        | 11,598        |
| Violent Felony        | 1,320 (8.0%)  | 980 (8.4%)    |
| Firearm Offense       | 146 (0.9%)    | 146 (1.3%)    |
| Child Victim          | 400 (2.4%)    | 471 (4.1%)    |
| <b>Drug Offense</b>   | 5,356 (32.5%) | 4,096 (35.3%) |
| Weapons               | 703 (4.3%)    | 550 (4.7%)    |
| DWI                   | 40 (0.2%)     | 22 (0.2%)     |
| <b>Prostitution</b>   | 4,392 (26.7%) | 2,753 (23.7%) |
| <b>Larceny/Theft</b>  | 3,286 (20.0%) | 2,001 (17.3%) |

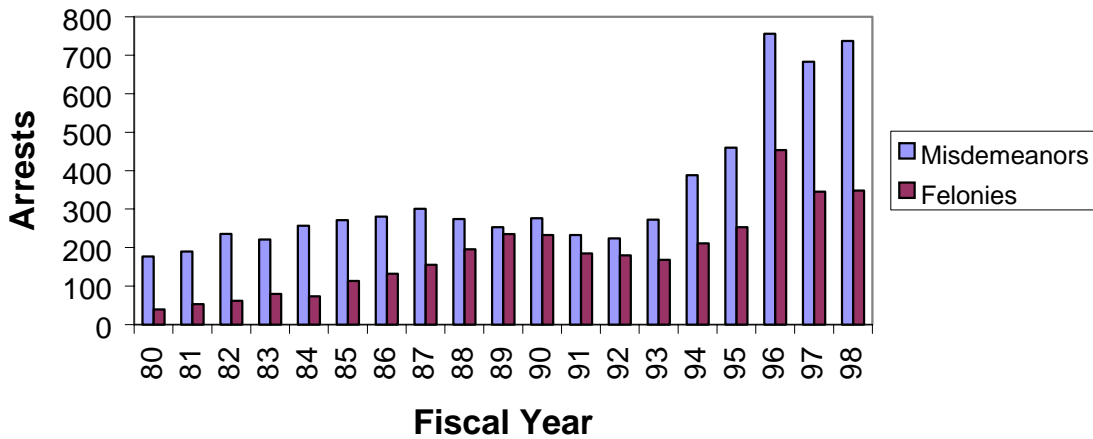
### How Do Conviction Rates Change Over Time?

We examined how the number of arrests leading to convictions changed over time, with a special focus on the year before and after child placement. Figures 2 and 3 illustrate the annual number of misdemeanor and felony arrests for the 1991 and 1996 cohorts. We found that the number of convictions rose steadily in the years before placement, and then peaked in 1991 for the 1991 cohort, and in 1996 for the 1996 cohort. The number of convictions in the years following the children’s placement in foster care declined slightly, but remained high for both cohorts. The 1991 cohort provides a clearer indication of this pattern over the seven years following placement, whereas findings for the more recent 1996 cohort are more tentative.

**Figure 2: 1991 Cohort Misdemeanor and Felony Arrests by Year**



**Figure 3: 1996 Cohort Misdemeanor and Felony Arrests by Fiscal Year**

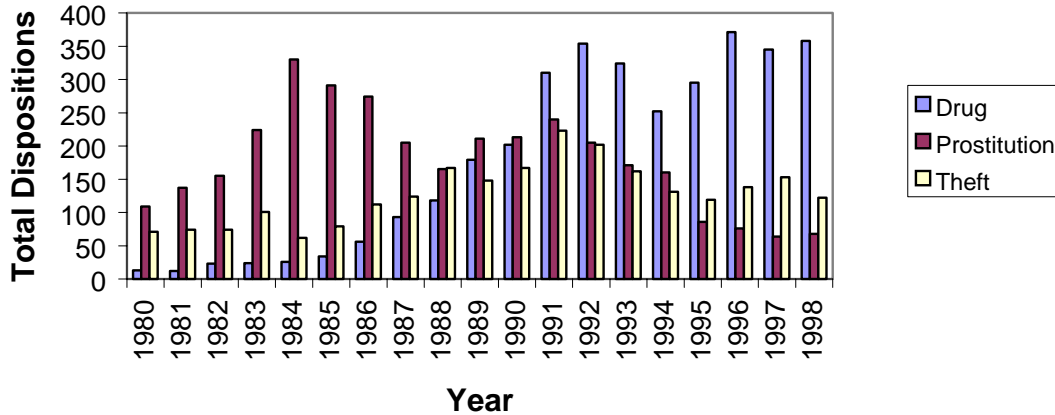


We paid special attention to patterns in the rate of convictions for drug, prostitution, and theft/larceny charges to see if the rate of maternal conviction for these charges changes around the time of foster care placement. We plotted the number of dispositions (where the disposition was a conviction) in both cohorts for these three categories from 1980 to 1998. This analysis is based only on the top charge recorded for these convictions. If a given conviction included multiple charges, the data used for this analysis would only record the most serious of those charges. As a result, Figure 4 shows the rates for the 1991 cohort, and suggests that the rate of drug conviction charges increases over time and remains high, especially following the year when the child was placed, whereas the rate of prostitution



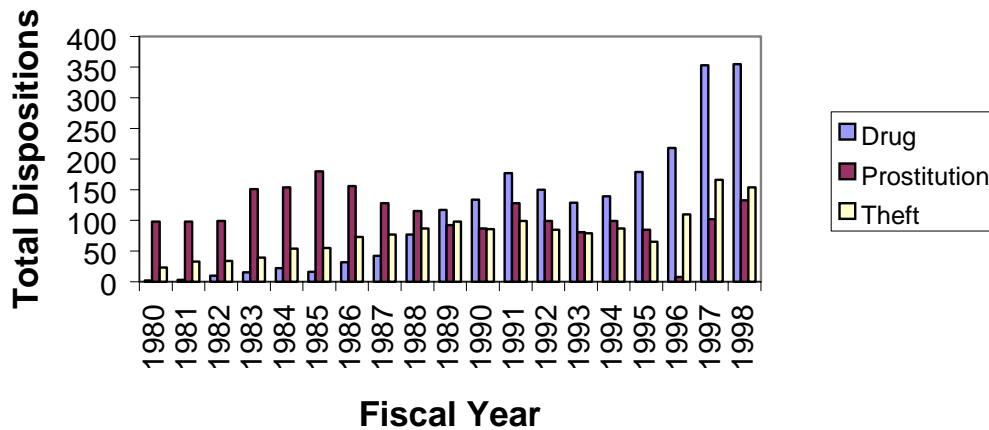
convictions decreases in the years after the child is placed into care. Theft/larceny convictions rise along with drug charges, peaking during the year the child enters care, but decline after that year. One explanation for the increase in drug convictions is that it reflects a worsening spiral of substance abuse and involvement in the drug trade that began before the child’s placement and continues in the years after the removal.

**Figure 4: 1991 Cohort Drug, Prostitution & Theft Dispositions, 1980-1998**



For the 1996 cohort, Figure 5 presents slightly different trends from those observed in 1991. While prostitution convictions decline over time, reaching their lowest levels during the year the child enters care, they also rise sharply after that point. Theft/larceny convictions also rise after the 1996 entry year. Only drug convictions demonstrate a similar pattern to that of 1991, showing a slight rise in the early 1990’s and then, around 1996, a sharp rise, which continues in the following years. Such comparisons of these two cohorts, however, are tentative, given that fewer years of post-entry data are available for the 1996 cohort.

**Figure 5: 1996 Cohort Drug, Prostitution & Theft Dispositions, 1980-1998**

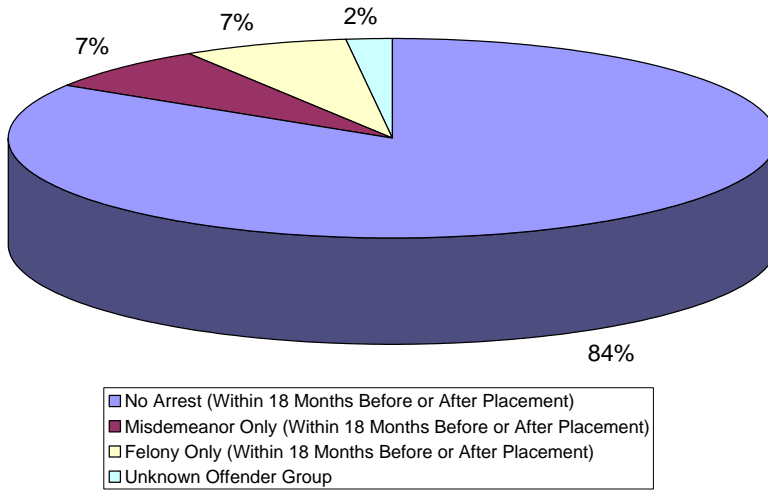


**What Are the Rates and Types of Maternal Convictions Around the Time of Child Placement?**

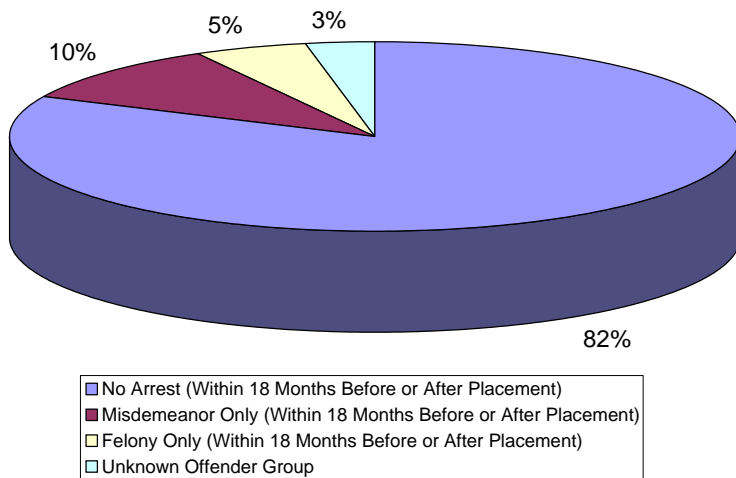
We focused our attention on the convictions of mothers that occurred in the 18 months before and 18 months after their children’s placement in foster care. Expectedly, fewer mothers were convicted in this shorter period than were ever convicted—1,194 mothers (15.6 percent of the 1991 cohort) and 1,279 mothers (17.9 percent of the 1996 cohort). The most common types of convictions were for drug offenses, prostitution, and theft/larceny.

Figures 6 and 7 show the percentage of mothers that fall into each of the arrest categories during the 18 months before and after child placement. The vast majority of mothers (84.4 percent of the 1991 cohort and 82.1 percent of the 1996 cohort) were not arrested on charges that led to a conviction. Roughly one of every 14 mothers (6.9 percent of the 1991 cohort) and one in every ten (10 percent of the 1996 cohort) were convicted for at least one misdemeanor but no felony. Fewer mothers were arrested and charged with felonies that resulted in convictions (6.7 percent of the 1991 cohort and 4.7 percent of the 1996 cohort). A small proportion was convicted for an unknown charge (1.9 percent of the 1991 cohort and 3.0 percent of the 1996 cohort). Again, the percentage of mothers convicted solely for misdemeanors versus solely for felonies is not related to the number of arrests of those persons. For both cohorts, the number of misdemeanor convictions was substantially higher than the number of felony convictions.

**Figure 6: 1991 Cohort - Offender Groups**



**Figure 7: 1996 Cohort - Offender Groups**



**What is the Lifetime Incarceration Rate of Mothers?**

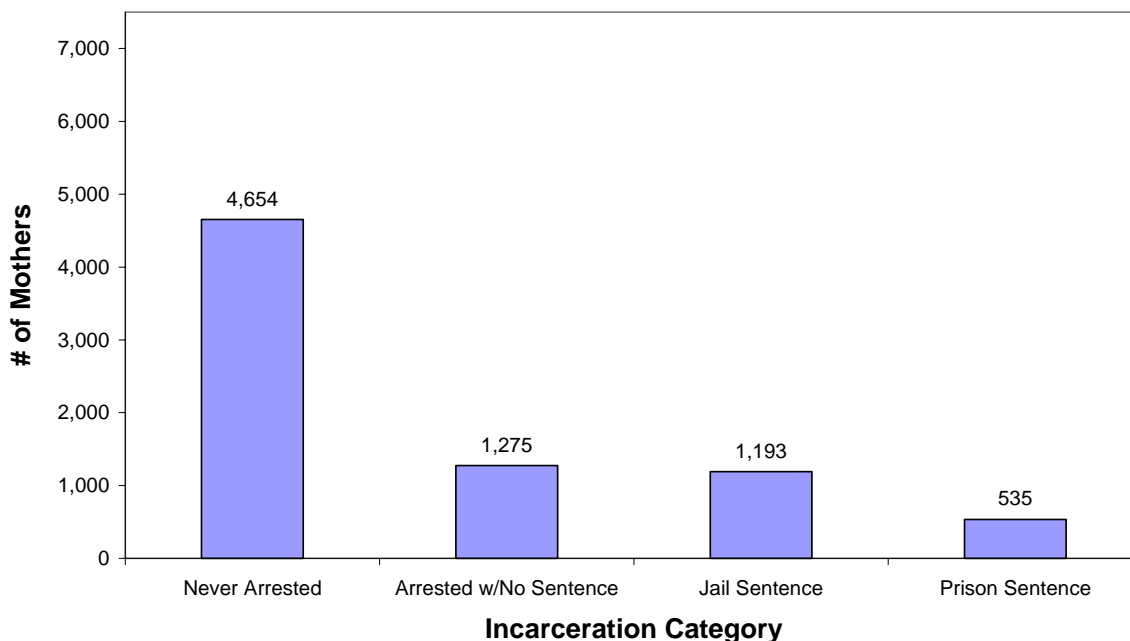
While the arrest and conviction data in this study show the degree of criminal activity among mothers of foster children, we need to examine how much of that activity resulted in incarceration. For both cohorts, we used DCJS and New York City Department of

Correction (DOC) data to classify mothers according to the type of incarcerations they experienced: no arrest, arrest with no incarceration, detention with no sentence, jail sentence, and prison sentence. All women were assigned to these categories according to their most severe type of incarceration. DOC data for the 1991 cohort were unavailable at the time of these analyses, so it was not possible to assign women to the “detention with no sentence” category. Consequently, jail sentences may be underrepresented for the 1991 cohort.

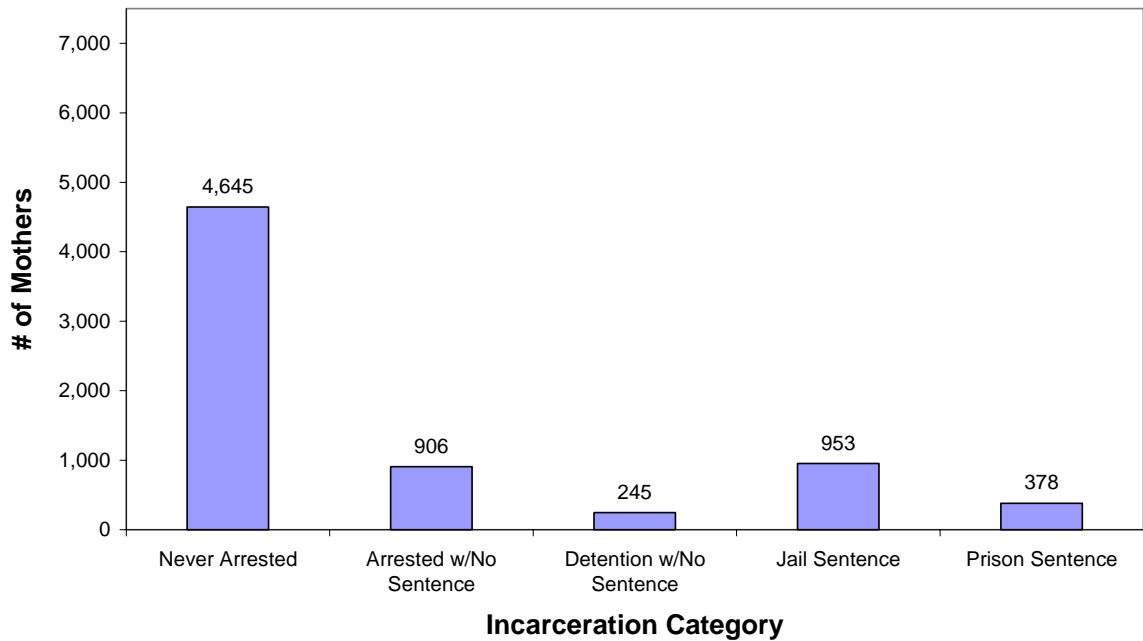
For the 1991 cohort, 22 percent of the mothers were incarcerated during their adult lifetimes, but most of these sentences were for jail, not prison. As shown in Figure 8, 61 percent of mothers were never convicted, 16.7 percent were convicted but never sentenced to jail or prison, 15.6 percent were sentenced to jail but never to prison, and 7.0 percent were sentenced to prison. The percentages of foster children with a biological mother in each of these categories were similar.

In the 1996 cohort, 22 percent were sentenced to incarceration during their adult lifetime, and jail accounts for the majority of the sentences. Overall, 65.2 percent of mothers were never convicted, 12.7 percent were convicted but never incarcerated, 13.4 percent were sentenced to jail, and 5.3 percent were sentenced to prison. Additionally, another 3.4 percent were detained without being sentenced in the three years before or three years after their child was placed in care (see Figure 9).

**Figure 8: Number of Mothers Per Sentence Category  
1991 Cohort (n=7,657)**



**Figure 9: Number of Mothers Per Sentence Category**  
 1996 Cohort (n=7,127)

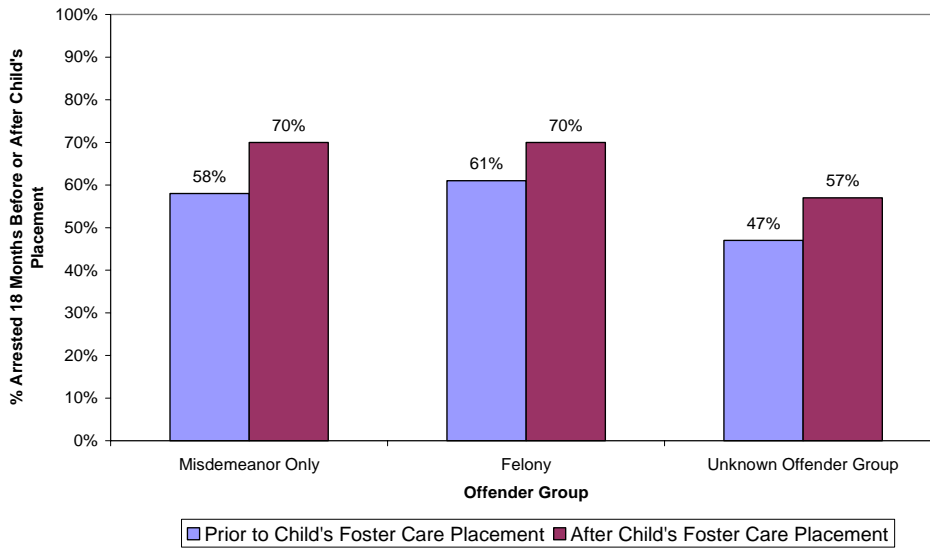


### How is Child Placement Related to Maternal Arrest?

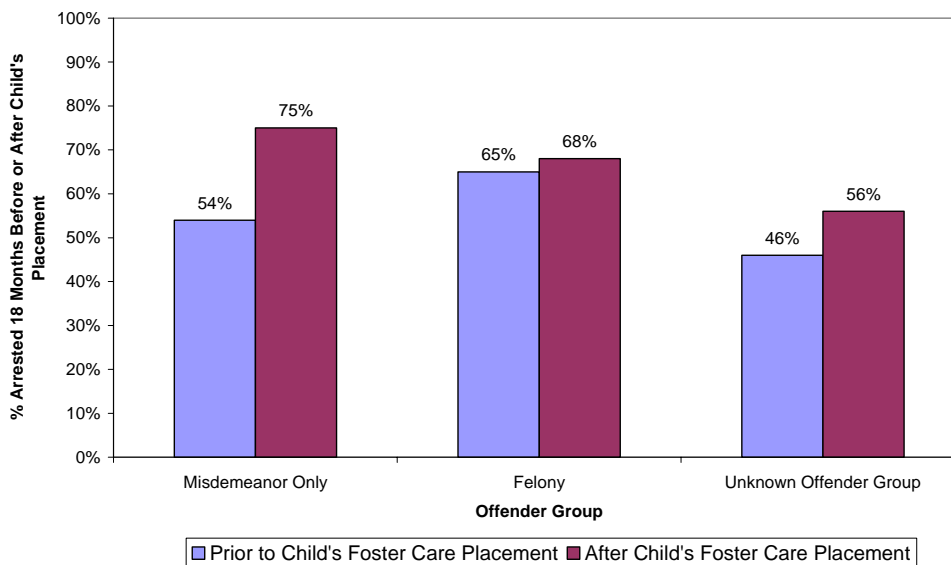
Our data cannot test whether a mother’s conviction *led* to a child’s placement into foster care. We can, however, estimate how closely linked the two events are chronologically, and hypothesize that, in some cases, the mother’s conviction prompted child placement, and, in other cases, mother’s conviction was simply a marker for other problems that prompted the placement. We examined the sequencing of the convictions of mothers that occurred in the 18 months before and 18 months after the children’s placement. We were especially interested in the conviction that occurred closest to the date of placement.

In Figures 2 and 3, we showed that mothers’ convictions peaked in the year the children were placed in foster care. Looking at the year of placement more closely, we found that mothers were arrested more often *after, rather than before*, their children were placed in care. (Some mothers were arrested both before and after the placement.) Figure 10 shows that of the mothers in the 1991 cohort who were arrested and convicted, 58 percent were arrested at least once on a misdemeanor charge in the 18 months before the children’s placement and 70 percent of these mothers were arrested at least once in the 18 months after the placement. Figure 11 shows the same pattern for the 1996 cohort. For both cohorts, the greatest increase in the rate of conviction was for mothers who were arrested for misdemeanor offenses only.

**Figure 10: Maternal Arrest Rates by Offender Group\*  
1991 Cohort**



**Figure 11: Maternal Arrest Rates by Offender Group\*  
1996 Cohort**



\* Some mothers in both cohort samples were arrested both in the period before and after the placement.

### What Are the Patterns of Maternal Conviction That Occur Immediately Before Children Are Placed in Care?

Within the 18-month time frame, the mothers last arrest charges prior to the children's placement into foster care were most likely for drug offenses, theft/larceny, and prostitution. In the 1996 cohort, a common charge was "crimes against a child" (15

percent), which occurred as often as theft/larceny whereas this pattern was not pronounced for the 1991 cohort.

Of the arrests leading to conviction that occurred on the same day as children were placed into foster care (18 arrests in 1991 and 44 arrests in 1996), over two-thirds of them were for offenses with a child victim, although we could not determine whether the child was the mother's own son or daughter. When we extended the date of entrance into care period through five days prior to placement (36 arrests in 1991 and 78 arrests in 1996), child-victim crimes remained the most frequent, with drug crimes and violent felonies also happening frequently. These results suggest that few children in foster care have a mother arrested in the days immediately preceding their placement. While drug, prostitution, and larceny were most likely the last crimes committed by mothers prior to their children entering into care, the handful of arrests with the strongest likelihood of contributing directly to a child's entrance into foster care were for more serious and often violent offenses, which may have been directed at the children themselves.

In a separate analysis, we looked at the arrests of mothers that occurred closest to the child's entry into care, whether that arrest occurred prior to, during, or after the end of the placement.<sup>13</sup> For the 1991 cohort, 501 children (or four percent of children in the sample and 11 percent of children with an arrested mother) have a mother whose closest arrest leading to conviction occurred within one year before the placement. For 1996, 695 children (or seven percent of children in the sample and 19 percent of children with an arrested mother) were in this category (Figures 12a and 12b).<sup>14</sup> For both cohorts, the arrests that occurred within the year before placement were especially likely to occur within the month before (Figures 13a and 13b). In the 1991 cohort, 148 children (or one percent of the sample) had a mother whose closest arrest leading to conviction occurred within the month before placement. The number for 1996 is 319 children, or three percent of the sample.

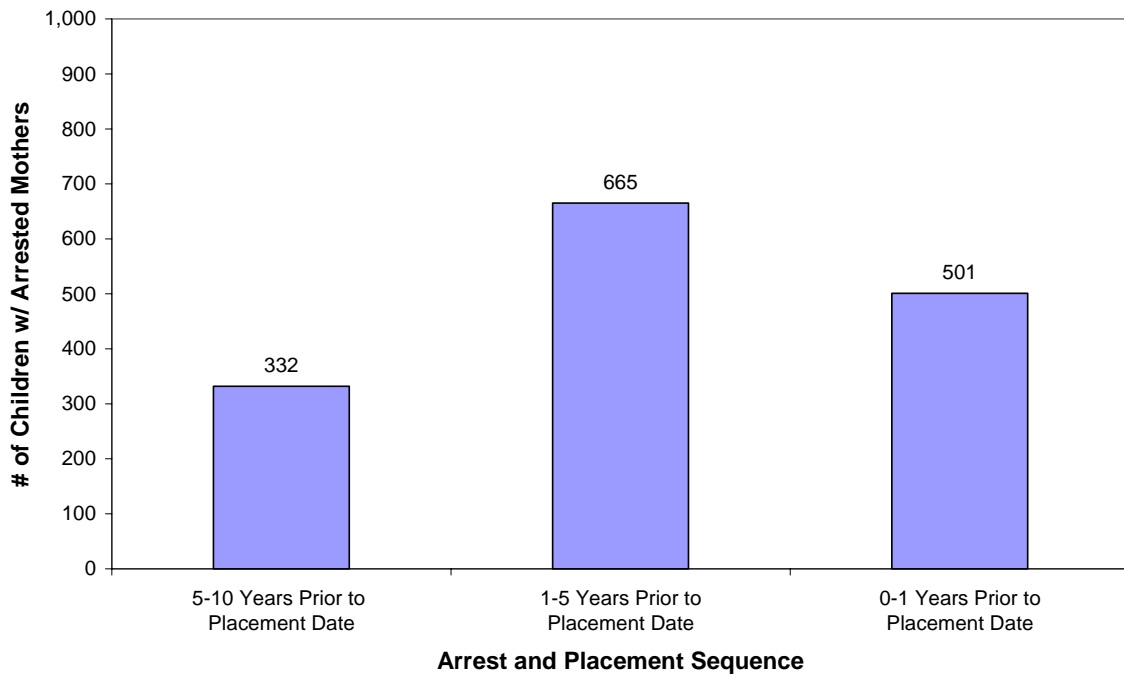
In sum, a significant proportion of children entering foster care have a mother who was ever arrested and convicted (39 percent of children in the 1991 cohort and 35 percent of children in the 1996 cohort), and a much smaller proportion of the children have a mother arrested in the period immediately preceding placement. For the children entering care in 1991 and 1996, about two percent had a mother arrested within the month before placement and about five percent had a mother whose closest arrest occurred within the year before the placement.

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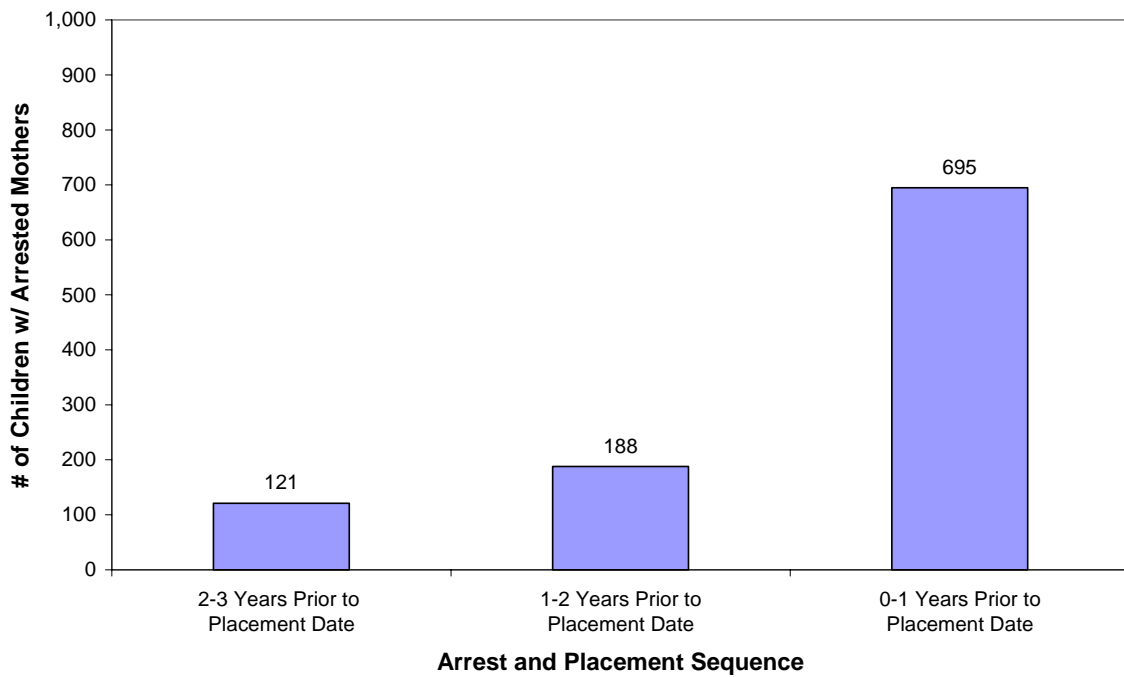
<sup>13</sup> We chose to select the arrest occurring closest to the placement to track the sequence between the arrest and the foster care placement. In this analysis and in the following figures, the unit of analysis shifts from arrested mothers to children of arrested mothers. The reason for this is that the arrest and foster care placement sequence may be different for children of the same mother. Accordingly, the timing of these two events was calculated for each individual child, rather than each individual mother.

<sup>14</sup> Figures 12a and 12b track arrest events over different periods of time. For our analysis of the 1991 cohort (Figure 12a), we had ten years of retrospective data. For the 1996 cohort, we had three years of retrospective data.

**Figure 12a: Arrest Event Closest to Child's Entry Into Foster Care, 1991 Cohort  
Where Arrest Occurred Prior to Foster Care Placement (n=1,498)**

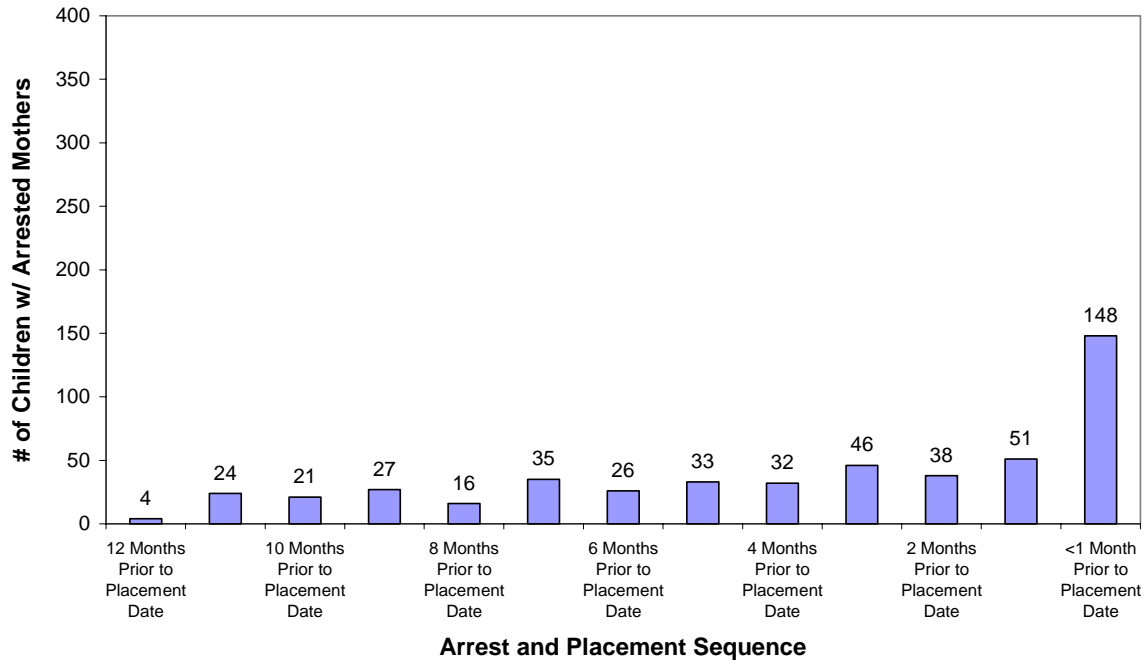


**Figure 12b: Arrest Event Closest to Child's Entry Into Foster Care, 1996 Cohort  
Where Arrest Occurred Prior to Foster Care Placement (n=1,004)**

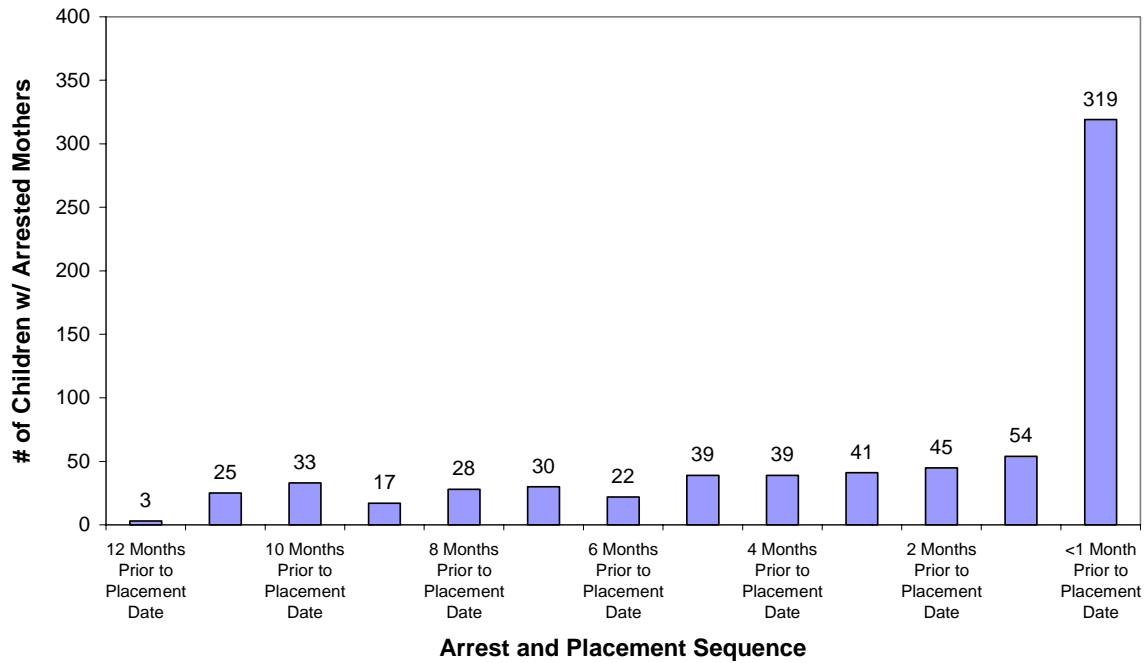




**Figure 13a: Arrest Event Closest to Child's Entry Into Foster Care, 1991 Cohort  
Where Arrest Occurred Within One Year Prior to Foster Care Placement (n=501)**



**Figure 13b: Arrest Event Closest to Child's Entry Into Foster Care, 1996 Cohort  
Where Arrest Occurred Within One Year Prior to Foster Care Placement (n=695)**



## What is the Maternal Incarceration Rate Before and After a Child Enters Care?

To compare the rates of incarceration before and after the child entered care, we tracked the 1991 cohort for 10 years before and after placement, and the 1996 cohort for three years before and after placement. In both cohorts, more mothers were sentenced to an incarceration stay in the years after their child entered foster care than in the years before. In the 1991 cohort, 18 percent were sentenced to incarceration after the placement compared to 11 percent before. In the 1996 cohort, 14 percent of mothers were sentenced to incarceration after their children's placement compared to 10 percent before.

We also examined the incarceration that occurred closest to the child's foster care placement. We compared the dates of the mother's incarceration with the dates of the child's foster care placement to determine if these two events overlapped. Each incarceration was coded with one of four values to classify the incarceration and placement sequence. Using this variable, we identified whether the incarceration concluded prior to the foster care placement; began after the foster care placement; began prior to, but overlapped with the foster care placement; or began after, but overlapped with the foster care placement.

Finally, we created a variable to calculate the time between incarceration and foster care placement. For the 1991 cohort, we did not have data available from DOC, meaning that all instances of detention without sentence were missing, and only data on sentencing were present. The results are shown in Figures 14 and 15.<sup>15</sup>

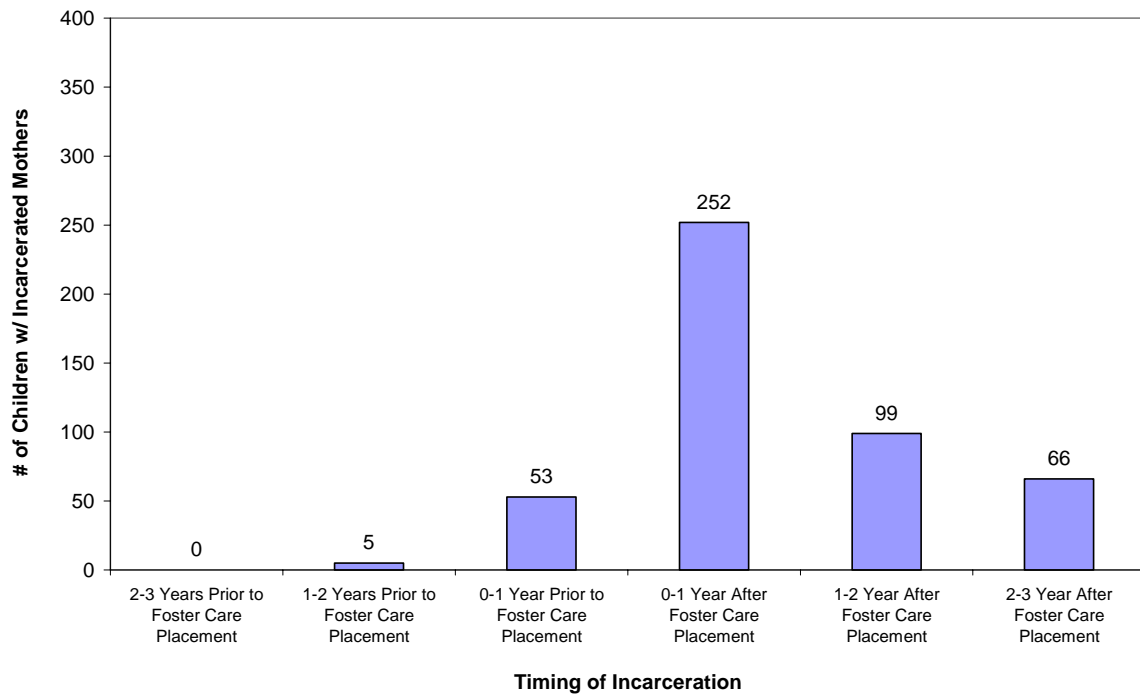
Considering the incarceration event closest to the child's entry into foster care—no matter how many years before or after the placement the event occurred—the incarceration of 10 percent of mothers in the 1991 cohort and 12 percent of mothers in the 1996 cohort overlapped with their children's stay in foster care. This means that 1,150 children in the 1991 cohort and 1,319 children in the 1996 cohort had a biological mother who was incarcerated at some point during their foster care stay. If we apply these results for the study group to the entire cohort of children who entered care in each of the two years, 1,376 children in the 1991 cohort and 1,532 children in 1996 had a mother incarcerated at some point during their stay in care.

For both cohorts, most of the mothers' incarceration that overlapped with the children's foster care placement occurred within the year after placement. The incarcerations that did not overlap were about equally likely to begin in the year before and the year after placement for the 1991 cohort, and much more likely to begin within the year before for the 1996 cohort.

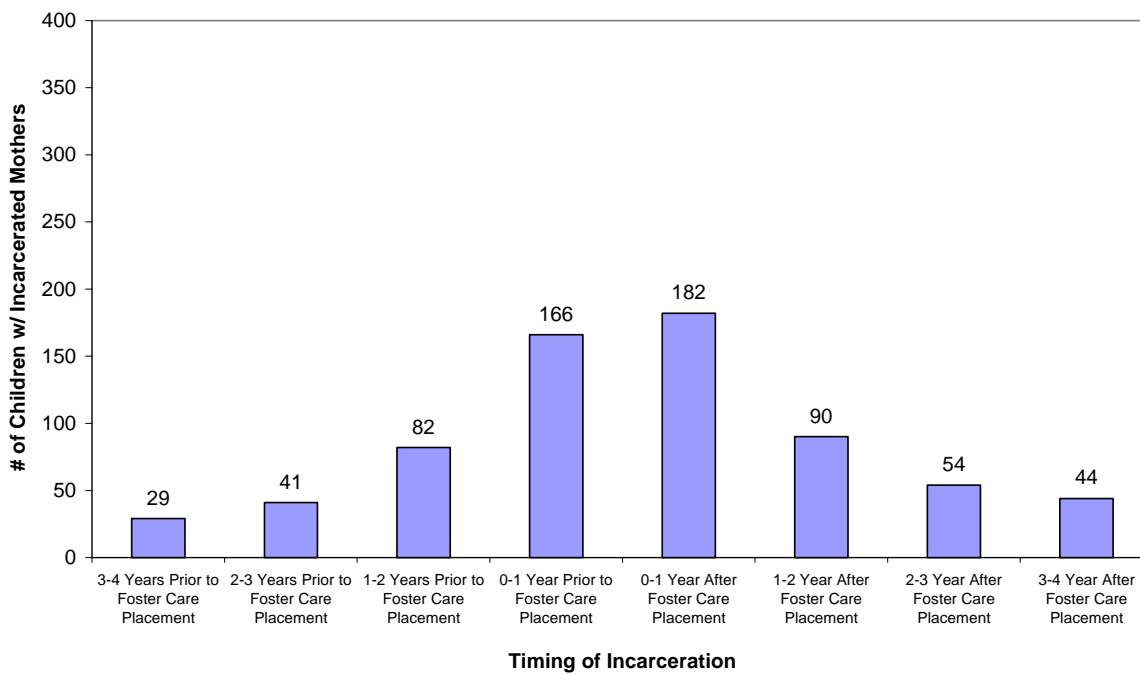
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<sup>15</sup> The sample sizes included on Tables 14a, 14b, 15a, and 15b do not match the incarceration rates reported on this page. For the incarcerations that did not overlap with the foster care placement, those that occurred 4 years or more before and after the foster care placement for the 1991 cohort, and three years for the 1996 cohort, were left off these graphs. We excluded that data to measure equal portions of time before and after the foster care placement.

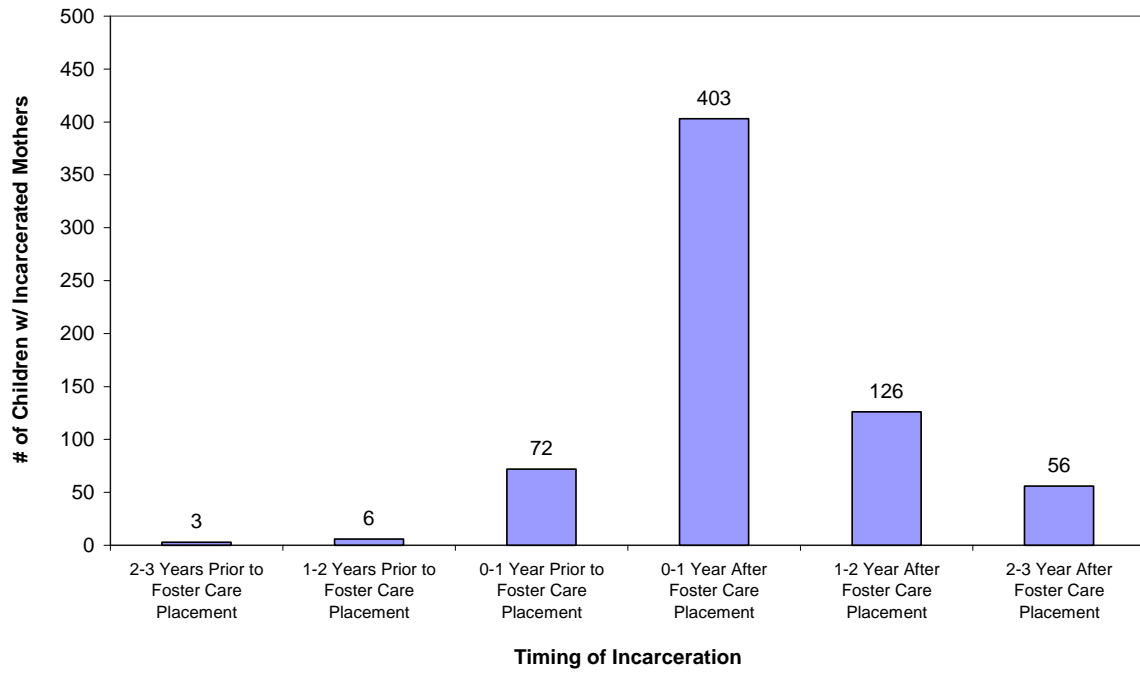
**Figure 14a: Incarceration Event Closest to Child's Entry Into Foster Care, 1991 Cohort  
Where Incarceration Overlapped With Foster Care Placement (n=475)**



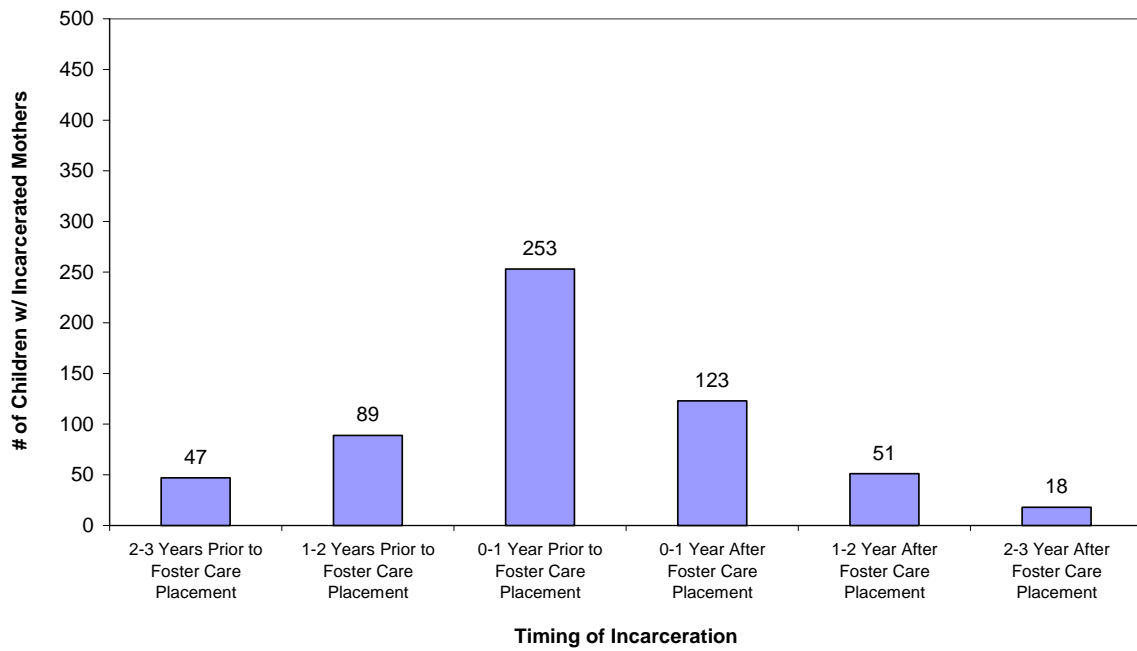
**Figure 14b: Incarceration Event Closest to Child's Entry Into Foster Care, 1991 Cohort  
Where There Was No Overlap Between Incarceration and Foster Care Placement (n=688)**



**Figure 15a: Incarceration Event Closest to Child's Entry Into Foster Care, 1996 Cohort  
Where Incarceration Overlapped With Foster Care Placement (n=666)**



**Figure 15b: Incarceration Event Closest to Child's Entry Into Foster Care, 1996 Cohort  
Where There Was No Overlap Between Incarceration and Foster Care Placement (n=581)**



## Relationships Between Foster Care Outcomes and Maternal Arrest/Incarceration

We have begun to analyze the relationships between the criminal history of mothers in these cohorts and certain foster care outcomes for their children, including time in care, level and type of care, and likelihood of adoption.<sup>16</sup> In each of the analyses, we are testing the association of criminal history with child outcome, while controlling for variables such as age, ethnicity, and gender. Since this analysis is preliminary and ongoing, the following trends are meant mainly to indicate the direction of further research.

In brief, we have found that children whose mothers have a criminal history seem to remain longer in foster care than children of mothers without such a history, after controlling for demographic characteristics and the level of foster care (congregate or noncongregate care). Preliminary findings also suggest that the children of mothers with criminal histories may be *less* frequently placed in congregate care than children whose mothers were never arrested. And, finally, incarceration seems to be associated with child adoption, even after accounting for maternal and child age. Preliminary findings suggest that children of mothers who were incarcerated for over two years in their lifetime were more likely to be adopted than those whose mothers were never incarcerated.

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<sup>16</sup> We have not yet examined other important outcomes, in particular, family reunification.

## Summary

This study matched the New York City child welfare and criminal justice records of women with children in foster care to determine the proportion of these mothers who were convicted or incarcerated and analyze the sequencing of maternal arrest, incarceration, and children's entry into foster care.

The results show that 35 percent to 39 percent of the biological mothers whose children entered foster care in 1991 and 1996 were arrested over the course of their adult lives.<sup>17</sup> About 15 percent of the mothers were arrested in the period surrounding their child's placement into care (the year and a half prior to or after their child's placement). Most mothers were arrested for drug, prostitution, and larceny/theft offenses and most of the arrest charges were misdemeanors.

Mothers' arrest and conviction rates appear to rise in the year that the children entered care. The arrests occurred more often in the 18 months *after* children are placed than in the 18 months before the placement. It seems that the children were removed at a time when the mother's substance abuse and other criminal activity had increased and she was no longer able to care for the children. The downward spiral then continued after the child's placement.

Only rarely were the mothers arrested on violent charges and even more rarely were the arrests related to charges of crimes against a child. Yet violent, child-related, and drug charges were the predominant charges in the few examples when both a mother's arrest and a child's placement into care occurred on the same day, or when the arrest occurred within a few days before the placement. Focusing somewhat more broadly on the immediate period before placement, from two to four percent of children in the two entering cohorts (or 148 children in the 1991 cohort and 319 children in the 1996 cohort) had a mother who was arrested in the month before placement. These results imply that only for a small group of children does a mother's arrest directly prompt placement.

Approximately 20 percent of mothers of the foster children in the two cohorts were incarcerated in their adult lives, but most of these women served time in jail or detention, not in prison. Over a 20-year period, the pattern of incarceration in the 1991 cohort suggests that the likelihood of incarceration after placement might increase slightly over the long term (17 percent after the child is placed versus 10 percent before).

Some 10 to 12 percent of the mothers were incarcerated during the child's stay in foster care. Specifically, 1,150 children in the 1991 cohort and 1,319 children in the 1996 cohort had a biological mother who was incarcerated at some point during their stay in

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<sup>17</sup> The proportions of children with arrested biological mothers are about the same.

foster care. When the incarceration overlapped with the placement, it usually began within the first year *after* the placement.

These results indicate that substantial proportions of mothers of foster children have a history of arrests and convictions. Although a relatively small proportion of the mothers were incarcerated during their child's first foster care stay, more than 1,000 children entering each year were affected. And these results underestimate the numbers of children affected by parental arrests and incarcerations since they reflect only the children whose mothers have a history of involvement with the criminal justice system and not the children whose fathers have been arrested, convicted, or incarcerated.

## Bibliography

Beatty, Cynthia. *Parents in Prison: Children in Crisis*. Washington, DC: Child Welfare League of America Press, 1997.

Beckerman, Adele. "Mothers in Prison: Meeting the Prerequisite Conditions for Permanency Planning." *Social Work* 39, no. 1 (January 1994): 9-14.

Bureau of Justice Statistics. *Special Report: Women in Prison*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1994.

----. *Special Report: Recidivism of Prisoners Released in 1983*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1997.

----. *Special Report: Profile of Jail Inmates 1996*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1998.

Genty, Philip M. "Termination of Parental Rights Among Prisoners: A National Perspective." In *Children of Incarcerated Parents*, edited by Katherine Gabel and Denise Johnston. New York: Lexington Books, 1995.

Glisson, Charles, James Bailey, and James Post. "Predicting Time Children Spend in State Custody." *Social Service Review* 74, no. 2 (June 2000): 253-280.

Family & Corrections Network Report. "The Impact of ASFA Upon Incarcerated Parents and Their Families." *Family & Corrections Network Report* 22 (October 1999): 5-14.

Hagan, John and Ronit Dinovitzer. "Collateral Consequences of Imprisonment for Children, Communities, and Prisoners." *Crime & Justice* 26 (1999): 121-162.

Hairston, Creasie Finney. "Family Ties During Imprisonment: Important to Whom and for What?" *Journal of Sociology & Social Welfare* 18 (1991): 87-104.

Johnston, Denise. "Child Custody Issues of Incarcerated Mothers." *The Prison Journal* 75, no. 2 (1995): 222-239.

Krupat, Tanya. "Still a Mother to Her Children: A Preliminary Look at Maternal Arrest in New York City." unpublished paper funded by Mathematica Policy Research, Inc., 1999.

Mauer, Marc. *Race to Incarcerate*. New York: The New Press, 1999.



Smith, B.E., Elstein, S.G., and the ABA Center on Children and the Law. *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated*. Washington, DC: ABA Center on Children and the Law, 1994.

Snell, T.L. *Special Report: Women in Prison*. Bureau of Justice Statistics. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1994.

Women's Prison Association. *Breaking the Cycle of Despair: Children of Incarcerated Mothers*. New York: Women's Prison Association, 1995.

## Appendix: Description of Data Sources

**Child Care Review Service (CCRS):** The CCRS is a collection of administrative databases maintained by the State of New York. It contains records for all foster children who entered care from 1985 to the present, including individual and family demographic data, records of movements a child made while in foster care, reason for discharge, permanency planning goals, and other pertinent information. For this report, we primarily used data from the individual bio, movement, and relationship tables. By merging information from these datasets, we were able to extract demographic information, placement and discharge dates, level of care (kinship, foster boarding home, or congregate care), length of stay, and other foster care outcomes.

**Welfare Management System (WMS):** The WMS is maintained by the State of New York. It is primarily used to manage services and payments to recipients of public assistance. For this report, we had access only to data corresponding to residents of New York City. Furthermore, the database was only used to extract social security information for our research subjects. Where they were available, social security numbers were used as part of the process of matching mothers with their criminal history records.

**New York State Division of Criminal Justice Services (DCJS):** DCJS is a criminal justice support agency which, among other responsibilities, collects and analyzes statewide crime data. DCJS provided data on individual arrests and sentences for the parents in the two cohorts we studied. Data elements included in this dataset were arrest and disposition charges; flags indicating whether the charge was for an offense related to drugs, prostitution, weapons, a child victim, violent felony, and sentencing information. Under New York State statute, DCJS was not permitted to return sealed records, in which the charge was dismissed or was disposed as a juvenile case.

**New York City Department of Correction (DOC):** We also requested and received data from DOC, which incarcerates those sentenced in New York City to terms of up to one year and provides custody for those who, after arraignment, are remanded without bail or are unable to post bail. We primarily used DOC data to extract information on admission and discharge dates from local jails. In addition, DOC data was used to identify individuals who were detained pending adjudication of their criminal charges, but not sentenced.

**New York State Department of Correctional Services (DOCS):** The Department of Correctional Services is responsible for managing the confinement of inmates held at all New York State prisons. We have requested and expect to receive data from DOCS containing information on all prison incarcerations experienced by mothers in the two research cohorts. DOCS' data system includes information on admissions, discharges and services provided to inmates, including counseling and substance abuse treatment.