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## VISITING EXPERTS' PAPERS

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### GOVERNMENT POLICIES AND PRACTICES THAT SUPPORT SUCCESSFUL RE-ENTRY OF JUSTICE-INVOLVED INDIVIDUALS

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#### I. INTRODUCTION

The United States is often referenced as the “incarceration nation”. Given the number of people under criminal justice supervision in the United States a more appropriate moniker might be the “corrections nation”. The United States’ system of punishment is enforced by our corrections system which is not only made up of prisons and jails but also includes community corrections agencies.

At the end of 2014 there were approximately 6,851,000 adults under corrections supervision in the United States, about 1 in 36 adults.<sup>1</sup> This number represents a decrease of 52,200 (0.7 percent) from year-end 2013. It is also the lowest rate the U.S. has experienced since 1996. The number of prisoners held by state and federal correctional authorities on December 31, 2014 was approximately 1,561,500, a decrease by 15,400 (down 1 percent from year-end 2013.<sup>2</sup> The great majority of the population is men. However, the number of women in prison who were sentenced to more than 1 year increased by 1,900 (up 2 percent) in 2014, from 104,300 in 2013 to 106,200 in 2014.<sup>3</sup> The number of women in the criminal justice system has been growing at a rate of 3.4 percent per year. However, the important figure to note for purposes of this paper is the 5,289,500 people who were serving their sentences under community supervision at year-end 2014.

The U.S. federal government and the states have been engaged with sentencing reform over the past ten years, and community supervision and other alternatives to incarceration have been more readily applied.<sup>4</sup> National nonprofit groups like the Council of State Governments Justice Center, Urban Institute, The Pew Charitable Trusts, Vera Institute of Justice and many other organizations have partnered with federal and state government agencies to design and implement programmes to reduce the number of people incarcerated. Since 2007, the correctional population has been decreasing on average 1 percent each year.<sup>5</sup> While this would appear to be a small decrease, in fact, it is having a significant impact across the country with fewer people serving prison or probation sentences. These changes are the result of a momentous national effort to be smarter about public safety at every point on the continuum of the criminal justice system.

There was a shift of focus in the United States’ public safety analysis. The U.S. has looked more closely at the sequence of events within our criminal justice system where change in policy and practice could influence the number of individuals who enter the corrections system.<sup>6</sup> Relevant points of contact within the criminal justice system include entry, prosecution, adjudication/sentencing, and corrections. It also

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<sup>1</sup>Kaebler, D., Glaze, L., Tsoutis, A., & Minton, T. “Correctional Populations in the United States, 2014” (NCJ 249513). Bureau of Justice Statistics. December 2015. Accessed 2016, January 10. <<http://www.bjs.gov/content/pub/pdf/cpus14.pdf>>.

<sup>2</sup>Carson, Anne E. “Prisoners in 2014.” Bureau of Justice Statistics. September 2015. Accessed 2016, January 10. <<http://www.bjs.gov/content/pub/pdf/p14.pdf>>.

<sup>3</sup>Kaebler et al., *op. cit.*, p. 4.

<sup>4</sup>See The Pew Charitable Trusts chart entitled, “Sentencing and Corrections Reforms in Justice Reinvestment States” Updated June 2015. Accessed 2016, January 10. <[http://www.pewtrusts.org/~media/assets/2015/06/sentencing\\_corrections\\_reforms\\_justice\\_reinvestment\\_states.pdf](http://www.pewtrusts.org/~media/assets/2015/06/sentencing_corrections_reforms_justice_reinvestment_states.pdf)>.

<sup>5</sup>The Pew Charitable Trusts. “State, Federal Prison Populations Decline Simultaneously for First Time in 36 Years.” September 17, 2015. Public Performance Project. Accessed January 10, 2016. <<http://www.pewtrusts.org/en/research-and-analysis/analysis/2015/09/17/state-federal-prison-populations-decline-simultaneously-for-first-time-in-36-years>>.

<sup>6</sup>See U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Criminal Justice System Flowchart. Accessed 2016, January 10. <<http://www.bjs.gov/content/largechart.cfm>>.

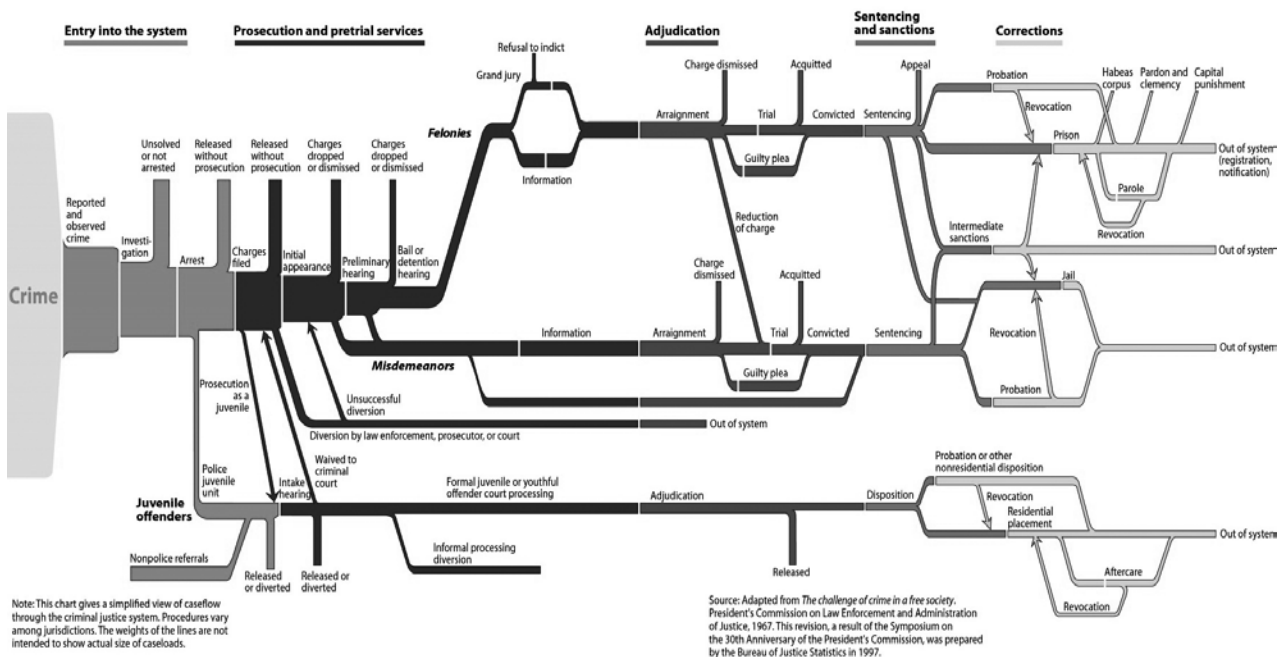
analyzed the incarcerated population, why they were incarcerated, how long they were incarcerated, and what the recidivism rates were after their release. The majority of the correctional population had nonviolent drug related convictions or histories of drug use that influenced their criminal behaviour. Too many prisoners were serving mandatory minimum sentences although 95% of them would be released from prison at some point.<sup>7</sup>

The recidivism rate was stagnant with nearly 70 percent of individuals getting rearrested within three years.<sup>8</sup> However, there were fewer (55.4 percent) who were actually convicted of a new offense and returned to jail or prison.<sup>9</sup> Re-arrests did not always denote commission of a new crime and earlier recidivism analysis included individuals who violated supervision requirements such as breaking curfews, failing drug screens, or not paying fines.

Moreover, many individuals with criminal records were facing federal and state legal barriers to successful re-entry in addition to addressing their own personal challenges. There are nearly 45,000 statutory civil consequences of criminal convictions that exist.<sup>10</sup> These legal restrictions serve as collateral sanctions outside of the penal system and restrict people with criminal convictions from qualifying for certain jobs, obtaining housing assistance, receiving public assistance, or other essential services. Furthermore, most states do not limit public access to criminal record information subjecting individuals with criminal records to lifelong bias and stigma.

Finally, public officials recognized that many formerly incarcerated individuals came from communities that lacked support services, good educational systems, adequate housing, healthcare, or employment opportunities. By 2008 when Congress passed the Second Chance Act of 2007, it was understood that there was a need for a much greater focus and emphasis on developing programmes and providing services that would prepare prisoners for re-entry and provide the additional services and support they would need in

**What is the sequence of events in the criminal justice system?**



Source: Office of Justice Programs, Bureau of Justice Statistics

<sup>7</sup>Hughes, T. & Wilson, D.J. "Reentry Trends in the United States: Inmates returning to the community after serving time in prison." Bureau of Justice Statistics. Accessed 2016, January 10. <<http://www.bjs.gov/content/reentry/reentry.cfm>>.

<sup>8</sup>National Institute of Justice. "Recidivism." N.d. Accessed 2016, January 10. <<http://www.nij.gov/topics/corrections/recidivism/pages/welcome.aspx>>.

<sup>9</sup>Ibid.

<sup>10</sup>American Bar Association. "Collateral Consequences are Threat to Public Safety, ABA tells task force." July 2014. ABA Washington Letter. Accessed 2016, January 10. <[http://www.americanbar.org/publications/governmental\\_affairs\\_periodicals/washingtonletter/2014/july/collateralconsequences.html](http://www.americanbar.org/publications/governmental_affairs_periodicals/washingtonletter/2014/july/collateralconsequences.html)>.

the community. The Second Chance Act was enacted to break the cycle of criminal recidivism; improve public safety; and help state, local, and tribal government agencies and community organizations respond to the rising populations of formerly incarcerated people who were returning to their communities.

The passage of this national legislation served as a message that people who make mistakes deserve a second chance and that public safety is a national concern that requires public and private partnerships to maintain. Nationally, a new effort arose to promote policies on every level of government that would support successful re-entry of justice involved individuals.

## II. SUCCESSFUL RE-ENTRY

Re-entry is the process of rehabilitation and reconnection to community. It involves ensuring that justice involved individuals act as responsible citizens and have the support to do so. There are several elements of re-entry that are important to the U.S.'s strategy to help people remain crime free: 1.) access to employment; 2.) access to safe and secure housing; and 3.) access to healthcare. While healthcare is significant, this paper will focus on the first two critical components of re-entry — employment and housing. Federal, state and local governments have addressed the re-entry needs of people in several ways including funding research and programmes, providing technical support to practitioners, reforming legislation and policies that serve as barriers to re-entry, and conducting public education.

Responding to the challenge of re-entry is viewed in two frames—addressing the responsibility of the individual and addressing the responsibility of the public. Successful re-entry requires the individual to commit to rehabilitation and to actively change their behaviour. The individual has to want to change his or her life, be willing to seek the services and do the individual work on and for them that will support that goal. The public's responsibility is to afford individuals the opportunity to pay their debt to society, fully participate in society through work and other civic activities, and receive help when it is needed.

### A. Funding Programs and Increasing Services

In 2003, the U.S. Department of Labor funded the Ready4Work demonstration project to address re-entry challenges faced by newly released formerly incarcerated individuals by providing coordinated employment, case management and mentoring services within community-based organizations and faith-based organizations. The Safer Foundation was an original grantee along with ten other organizations across the country. In 2005, the U.S. Department of Labor and the U.S. Department of Justice implemented a joint initiative called the Reintegration of Ex-Offenders (RExO). It was also created to support employment programmes that include mentoring as part of their services in urban communities. These communities were targeted because in most states prisoners came from and returned to the largest urban cities in the state and due to the sentencing and corrections reforms that were happening, hundreds of thousands of prisoners were expected to be released each year. These individuals were likely to return to communities that were economically depressed and lacked sufficient community resources to support their re-entry needs.

In 2008, the Second Chance Act (SCA)<sup>11</sup> was enacted to authorize federal grants to government agencies and nonprofit organizations to provide re-entry services including employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that support corrections and supervision practices aimed at reducing recidivism. The SCA authorized the Prisoner Re-Entry Initiative (PRI), an employment programme that grew out of a pilot programme that had been administered by the U.S. Department of Labor called Ready4Work. The project provided mentoring and other transition services for men and women returning from prison and was a partnership between the U.S. Department of Labor and faith-based and community organizations. PRI expanded Ready4Work and allowed more grant support to faith-based and community organizations that help justice-involved individuals find work, connect with mentors, and avoid relapse into criminal activity.

PRI is another joint initiative between the U.S. Department of Labor (DOL) and U.S. Department of Justice (DOJ). DOJ grants are awarded to State agencies for pre-release services to partner anti-recidivism

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<sup>11</sup> Pub. L. 110-199, Apr. 9, 2008, 122 Stat. 657, known as the Second Chance Act of 2007: Community Safety Through Recidivism Prevention and also as the Second Chance Act of 2007.

efforts with those of faith-based and community organizations. DOL funds are awarded to faith-based and community organizations that provide a variety of assistance to formerly incarcerated men, women, and youth, including workforce development services, job training, counseling, and other re-entry services.

The SCA also assists States and local government entities, in partnership with nonprofit organizations, to establish prisoner re-entry demonstration projects. Demonstration projects include:

- Education, vocational training, and job placement services;
- Coordinated supervision of formerly incarcerated individuals between corrections and housing and mental and physical health care providers; and
- Programmes that encourage formerly incarcerated people to develop safe, healthy, and responsible family and parent-child relationships.

## **B. Training and Technical Assistance for Re-entry Practitioners**

The SCA authorized the creation of a National Re-entry Resource Centre (NRRC),<sup>12</sup> which serves as the primary source of information and guidance in re-entry, advances the use of evidence-based practices and policies and creates a national network of practitioners, researchers, and policymakers invested in reducing recidivism. The NRRC, though administered by the U.S. Department of Justice's Bureau of Justice Assistance, is operated by the Council of State Governments Justice Center, Urban Institute, the Association of State Correctional Administrators, the American Probation and Parole Association, the National Association of Counties, and the Center for Juvenile Justice Reform at Georgetown University's McCourt School of Public Policy. It is a national technical support center that provides technical assistance to Second Chance Act grantees but also partners with more than 150 leading nonprofit organizations and service providers in the re-entry field to participate in systems change across the country.

Providing technical support and training for practitioners who provide re-entry support is a necessary function of government, particularly for those who provide employment services. Leaders should identify all of the various places individuals may go for support with entering or re-entering the workforce. Second, trainings must be developed to educate the various re-entry practitioners from community corrections, workforce, substance use treatment, and case management agencies about the unique challenges faced by workers with criminal records and the role they have in helping individuals to overcome those challenges. Practitioners need to understand background screening processes, state laws concerning access to criminal record information, the rights and obligations of workers and employers, how to counsel job seekers to discuss and document their criminal history on job applications, how to build relationships with employers to create job opportunities for their clients, and how to help an individual manage other challenges and obstacles they may face while in transition.

The National Institute of Corrections (NIC), an agency within the U.S. Department of Justice, Federal Bureau of Prisons, provides training, technical assistance, information services, and policy/programme development assistance to federal, state, and local corrections agencies. NIC was charged with cross-training community corrections officers and workforce development practitioners all across the country on how to support and provide employment assistance to individuals with criminal records. Comprehensive in-person trainings were conducted with teams of corrections and workforce practitioners that would work together in their respective communities. The team participated in the trainings together to ensure each understood their role in employment programming.

## **C. Government Leadership**

Systemic changes require leadership. Government agencies that have some hand in the lives of people must collaborate and be at the table together to determine ways they can collectively support re-entry. They can work together to limit the chance of duplicative efforts, potentially reap cost savings by pooling resources, and streamline service delivery systems for individuals with complex needs. For example, in 2011 the former U.S. Attorney General Eric Holder convened a cabinet-level council called the Federal Interagency Re-entry Council, which represents 20 federal agencies that work towards a mission to:

- make communities safer by reducing recidivism and victimization,
- assist those who return from prison and jail in becoming productive citizens, and
- save taxpayer dollars by lowering the direct and collateral costs of incarceration.

<sup>12</sup> The National Reentry Resource Center's website is <<https://csgjusticecentre.org/nrrc>>.

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The Re-entry Council represents a significant executive branch commitment to coordinating re-entry efforts and advancing effective re-entry policies. It is premised on the recognition that many federal agencies have a major stake in prisoner re-entry. Re-entry Council agencies are taking concrete steps towards not only reducing recidivism and high correctional costs but also improving public health, child welfare, employment, education, housing and other key reintegration outcomes. The first action by the Re-entry Council was to issue several fact sheets they called "Re-entry Mythbusters" to educate prison, jail, probation, community corrections, and parole officials; re-entry service providers and faith-based organizations; employers and workforce development specialists; and states and local agencies.

The Re-entry Mythbusters clarify existing federal policies that affect formerly incarcerated individuals and their families in areas such as public housing, access to benefits, parental rights, employer incentives, Medicaid suspension/termination, and more. Other actions by members of the Re-entry Council include:

- The U.S. Equal Employment Opportunity Commission (EEOC), the agency that enforces the country's national anti-discrimination law, led an effort to issue an update of the guidance that the agency released nearly 30 years ago to discourage employers from establishing blanket bans against hiring people with arrest and conviction records, which could violate Title VII of the Civil Rights Act of 1964.<sup>13</sup> Legal and enforcement actions by the EEOC have forced some large companies in the U.S. to shift their approach to screening job applicants from one that rules out all jobseekers with felonies to a more tailored one that examines the individual's crime and its relevance to the job under consideration.

This guidance came on the heels of the completion of two prominent studies that were funded by the National Institute of Justice, which found that a criminal record reduces the likelihood of a job callback or offer by approximately 50 percent. This criminal record "penalty" was substantially greater for African Americans than for white applicants. The more recent study included Latinos in the test pool and showed they, too, suffer similar "penalties" in the U.S. labor market.<sup>14</sup> In 2012, when the guidance was issued African Americans accounted for less than 14 percent of the U.S. population<sup>15</sup> but 28 percent of all arrests. They were even more highly represented in the incarcerated population, comprising almost 40 percent of those behind bars.<sup>16</sup>

- The U.S. Attorney General issued a letter to all State Attorneys General asking that they identify criminal record collateral consequences and develop a plan for eliminating unjustified barriers to re-entry. Prior to his issuing the letter, the National Institute of Justice funded the American Bar Association, Criminal Justice Section, to create a national inventory of collateral consequences that is an online searchable catalogue of all collateral consequences found in each U.S. jurisdiction. Until then there was no way to identify all of the collateral consequences of a criminal conviction. They found approximately 44,500 collateral consequences that are catalogued in the NICCC database.
- The Secretary of Housing and Urban Development (HUD), the U.S. federal housing agency, issued letters to all Public Housing Authorities and to private landlords that use federal subsidies encouraging them to institute fair housing policies that will not unnecessarily eliminate people with criminal histories from admission consideration. HUD has since issued guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions.<sup>17</sup>

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<sup>13</sup> United States. U.S. Equal Employment Opportunity Commission. "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq." April 25, 2012. Accessed 2016, January 10. <[http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)>.

<sup>14</sup> Pager, D. "The Mark of a Criminal Record" (pdf, 39 pages) Exit Notice, *American Journal of Sociology* 108 (2003): 957-960; Pager, Devah, Bruce Western, and Bart Bonikowski, "Discrimination in a Low-Wage Labor Market: A Field Experiment" (pdf, 23 pages) Exit Notice, *American Sociological Review* 74 (October 2009): 777-779.

<sup>15</sup> Rastogi, S., Johnson, T.D., Hoeffel, E.M. & Drewery, Jr., M.P. *The Black Population: 2010* (pdf, 20 pages), 2010 Census Briefs, Washington, D.C.: U.S. Department of Commerce, U.S. Census Bureau, 2011.

<sup>16</sup> Sabol, W.J., Minton, T.D., & Harrison, P.M. "Prison and Jail Inmates at Midyear 2006" (NCJ 217675). U.S. Department of Justice, Bureau of Justice Statistics, 2011. Accessed 2016, January 10. <<http://www.bjs.gov/content/pub/pdf/pjim06.pdf>>.



Similarly, state and city leaders have assembled re-entry task forces that include a broad range of partners—including state and county officials, community- and faith-based organizations, local educational institutions, business associations and employers, and formerly incarcerated individuals and their families—that come together to share data, strategize on how to address challenges faced by individuals during re-entry, and come up with ideas of how to create opportunities for their success. The first set of tasks for the group is usually to review pertinent research; evaluate areas and populations most in need; issue a report of findings, and develop a strong message to build political will and momentum around the task force’s re-entry efforts. The task force must establish a stated focus, create a clear timeline with set goals, identify common measures of success, designate roles and responsibilities, and maintain consistent and ongoing communication as they work toward achieving their goals.

### III. RE-ENTRY BARRIERS AND SOLUTIONS

As noted above, people with criminal conviction records face numerous barriers to successful re-entry. However, employment and housing are considered the biggest challenges that have the greatest influence over an individual’s success of remaining crime free. Nearly 50 percent of individuals in jails were unemployed at the time of their arrest, and between 60 percent and 75 percent of formerly incarcerated people are jobless up to a year after release.<sup>18</sup> Moreover, homelessness often precipitates incarceration. Individuals incarcerated in jails are 11.3 times more likely to be homeless than the general population and 15 percent of people in prison previously experienced homelessness.<sup>19</sup> While employment is a critical need, housing is the most immediate challenge faced by people leaving prison.

#### A. Employment

The employment challenges faced by the people with criminal records are unique to each individual, though there are some commonalities among various subgroups. The level of difficulty faced by an individual during reintegration is often dictated by the personal, criminogenic,<sup>20</sup> and structural challenges that exist for that individual.

Personal	Criminogenic	Structural
<ul style="list-style-type: none"> <li>● Criminal record</li> <li>● Limited education</li> <li>● Limited and outdated job skills</li> <li>● Lack of transportation</li> <li>● Interpersonal skill deficits</li> <li>● Mental health/substance abuse disorders</li> <li>● Low levels of educational, vocational, or financial achievement</li> <li>● Homelessness</li> </ul>	<ul style="list-style-type: none"> <li>● History of anti-social behaviour</li> <li>● Anti-social personality</li> <li>● Anti-social attitudes</li> <li>● Anti-social peers</li> <li>● Family stressors</li> <li>● Substance abuse</li> <li>● Poor use of leisure time</li> </ul>	<ul style="list-style-type: none"> <li>● Social exclusion</li> <li>● Discrimination</li> <li>● Legal exclusion from certain occupations, e.g., clinical health care</li> <li>● Access to health care</li> </ul>

These individual challenges will determine the types of programmes and the intensity of services that are appropriate to meet a person’s re-entry needs. There are three employment programme models that are used to serve people with criminal histories. The traditional workforce development model includes providing job readiness training, skills training, job placement, and retention services. Transitional Jobs is an employment model that provides job readiness training, subsidized work experience, and support services. Customized employment involves matching a job seeker’s dreams and talents to supported em-

<sup>17</sup> United States. Housing and Urban Development. (2015, November 2). “Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions.” Available at <<http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>>.

<sup>18</sup> Petersilia, J. *When Prisoners Come Home: Parole and Prisoner Reentry*. Chicago, Ill: University of Chicago Press, 2003; Travis, J. *But They All Come Back: Facing the Challenges of Prisoner Reentry*, Washington D.C.: Urban Institute Press, 2005.

<sup>19</sup> Knopf-Amelung, S. *Incarceration & Homelessness: A Revolving Door of Risk*. In *Focus: A Quarterly Research Review of the National HCH Council*, 2:2. (November 2013). National Health Care for the Homeless Council. Accessed 2016, January 10. <[www.nhchc.org](http://www.nhchc.org)>.

<sup>20</sup> Behaviours or activities associated with crime or criminality.



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ployment opportunities, which builds to a career of choice. It is an individualized exploration of employment interests and needs, which can be facilitated by any of a number of established tools.<sup>21</sup> No matter what employment model is used in a programme that serves job seekers with criminal histories, they must incorporate the following in their service delivery:

- Helping participants review and “clean up” their rap sheets and credit reports. An increasing number of employers rely on background checks to probe an applicant’s criminal history. Some employers may obtain criminal record information directly from the state’s criminal repository of criminal records or through a consumer reporting agency or private background check companies. Inaccurate or very old information as well as information on arrests that did not lead to conviction may give an unnecessarily negative profile of the job applicant. Staff must be familiar with a client’s complete criminal history to conduct appropriate job referrals.
- Helping participants develop realistic short- and long-term career goals. For example, a short-term goal might be focused initially on job retention in a good job in a client’s field of choice, particularly for clients with episodic work histories. A long-term goal would be more focused on education, training, or a certificate needed for advancement in the client’s field of choice.
- Helping participants get necessary documentation such as various forms of identification (i.e., state-issued picture identification, social security card, and birth certificate) they will need to apply for jobs.
- Ensuring participants get personal management training, including reviewing the importance of punctuality and attendance, appropriate attire, the ability to accept criticism, working collaboratively, and work ethic.
- Providing immediate income while preparing and training clients for employment through stipends or paychecks that may cover transportation costs (at a minimum). Payment is also an incentive for participants to attend the programme.
- Providing Post-Employment Services to Promote Job Retention.
- Providing or linking clients to the support services they need to help them retain employment, including addressing child support issues, alcohol and substance abuse problems, housing, child care, and transportation, which can all compromise employment success.
- Providing post-placement or follow-up services that include crisis intervention, continued support and career advancement guidance.
- Forming collaborations with other entities that will enhance and support successful workforce development including community corrections agencies.

Individuals with criminal records not only have to overcome the stigma associated with having a criminal record—even after they have completed their sentence and paid their debt to society—they will often encounter federal and state laws and policies that make successful re-entry much more difficult. There are several re-entry policy reforms that policymakers and advocates are seeking to improve the re-integration of people with criminal histories:

1. Ban the Box: Over 100 local jurisdictions as well as ten states have adopted this hiring policy that prescribes the point at which an employer may inquire about an individual’s criminal record during the hiring process. Recently, President Obama announced that he would remove the question about criminal history from federal government applications to open the door to more opportunities for qualified workers with criminal records to apply for federal employment.

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<sup>21</sup> ICF International under subcontract to Economic Systems Inc. *Customized Employment Works Everywhere*. 2009. U.S. Department of Labor Contract No. DOLQ08942777. Accessed 2016, January 10. <[http://www.dol.gov/odep/documents/vignette\\_v3\\_blue\\_508\\_final.pdf](http://www.dol.gov/odep/documents/vignette_v3_blue_508_final.pdf)>.

2. **Certificates of Rehabilitation:** Approximately 10 states have laws that create a restoration of rights process that provides relief of civil consequences and recognizes an individual's rehabilitation and, thereby, reduce employment sanctions and disqualifications. These certificates in some states will remove statutory bars to jobs and occupational licenses. They are also documents that are issued by an authority that has reviewed the individual's rehabilitation history such as the Board of Parole Review or a judge.
3. **Expungement/Sealing:** Criminal records can plague jobseekers years after the disposition of their case when the records are disseminated to employers indiscriminately and indefinitely. Many states have passed record suppression laws to increase the opportunity for individuals with old or minor offenses and arrests that did not lead to conviction to compete fairly for employment.
4. **Identification:** Formerly incarcerated and even homeless individuals have a difficult time obtaining state identification due to application fees, no other acceptable form of identification, or no transportation to Motor Vehicle offices, which makes it difficult to fully participate in society. Some states have created new procedures through cooperation between Departments of Corrections and Motor Vehicles to ensure easier access to obtaining identification documents and other information needed to secure employment.
5. **Negligent Hiring:** In response to employers' concerns about risks and liability of hiring people with criminal histories, some states have adopted laws, in conjunction with other reforms, to limit the liability of employers that hire people with criminal records.
6. **Employer Incentives:** The federal government has created two employer incentive programmes to encourage them to hire qualified workers with criminal histories. The Federal Bonding Program was created in 1966 to provide Fidelity Bonds that guarantee honesty for "at-risk", hard-to-place job seekers during the first six months of employment. The bond is insurance to protect employers against employee dishonesty and covers any type of stealing: theft, forgery, larceny, and embezzlement. There is no cost to the job applicant or the employer. In most states the bonds are made available through the state agency responsible for workforce matters.<sup>22</sup> Second, the Work Opportunity Tax Credit (WOTC) is a Federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barriers to employment. People with criminal and addiction histories are identified in this group. The tax credit employers can claim depends upon the target group of the individual hired, the wages paid to that individual in the first year of employment, and the number of hours that individual worked. There is also a maximum tax credit that can be earned.<sup>23</sup>

## **B. Housing**

People with criminal conviction records face multiple challenges to securing safe, stable, and affordable housing. While some individuals can return home to families, many are confronted with limited housing options, especially those who suffer with mental illness and/or substance use addiction problems. It is estimated that on average about 10% of parolees are homeless at the time of their release from prison but in urban communities, that number is likely to be higher for individuals who also have histories of drug use and addiction.<sup>24</sup> In the United States, there is a scarcity of affordable and available housing. Furthermore, although there are also legal barriers and regulations that bar individuals with certain types of conviction records from qualifying for tenancy in federally subsidized housing the public's understanding of the law and federal rules often went far beyond the federal bar, which only applies to individuals subject to lifetime registrations under a State sex offender registration programme and anyone convicted of drug-re-

<sup>22</sup> More about the Federal Bonding Program is available at <<http://www.bonds4jobs.com/>>. The programme boasts a 99 percent success rate in helping to restore the insured to a bondable status that allows them to qualify for other commercial bonding with an employer.

<sup>23</sup> The Work Opportunity Tax Credit programme is administered by the U.S. Department of Labor. Other target populations include veterans, public welfare recipients, designated Community Residents (living in Empowerment Zones or Rural Renewal Counties), vocational Rehabilitation Referral, Supplemental Security Income recipients, and Summer Youth Employee (living in Empowerment Zones).

<sup>24</sup> Moraff, C. (2014, July 23). "Housing First" Helps Keep Ex-Inmates Off the Streets (and Out of Prison). *Next City*. Available at <<https://nextcity.org/daily/entry/housing-first-former-prisoners-homelessness>>.

lated criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

Private landlords and public housing agencies have wide latitude and discretion on their selection criteria but often err on the side of total exclusion. They may conduct criminal record checks and deny housing to individuals with conviction records no matter how old or minor the criminal record. A consistent challenge is securing housing for individuals convicted of sex offenses.

The United States has attempted to meet the challenge of creating more housing options for people with criminal histories through public education (dispelling myths about legal restrictions) and encouraging landlords and public agencies to loosen their criminal record restrictions and the developing multiple housing models such as transition and halfway houses that will house people temporarily as they transition to permanent housing. The housing programmes may range from 3 months, 6 months, or up to or over one year as participants receive life skills training, case management, and other services that are necessary to stabilize them in the community while the programme works to transition the individual to their own residence.

Transitional Housing programme structures usually come in three forms. Housing providers may subsidize the cost of the individual's own lease agreement and pay a portion of rent directly to a landlord. Programmes may be the lessors of living residences and sublet the spaces to their clients. The programme is responsible for paying the rent and creates a sublease or rental agreement with their client who then pays an agreed amount to the programme. Finally, the programme may own and operate property that their client rents directly from the programme. The programmes may also provide support services that may include regular staff contact, crisis services or other services to prevent relapse, such as those focusing on mental health, substance abuse, and employment.

In 2004, the U.S. Department of Justice issued the publication, "Guide for Developing Housing for Ex-offenders," that provides a step-by-step approach to developing housing programmes for formerly incarcerated individuals and their families.<sup>25</sup> Organizations are advised to consider five important variables:

- The specific segment of the population to be served.
- The type of housing to be provided.
- The stakeholders to be included in each phase.
- The source and availability of funds.
- Management capacity for the programme.

Other options recommended for developing new housing is to:

- Work with local service providers, investors, and developers.
- Rehabilitate abandoned housing.
- Expand existing local housing programmes.
- Participate in or create a consolidated planning strategy for affordable housing and homelessness.

In the U.S., consolidated planning was designed by HUD to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding.

Governments can also incentivize and spur action through tax credits. For example, in 1986 the Low-Income Housing Tax Credit (LIHTC) programme, which provides an indirect federal subsidy to developers, was created to encourage the investment of private equity in the development of affordable rental housing for low-income households. The tax credit is calculated as a percentage of costs incurred in developing the affordable housing property, and is claimed annually over a 10-year period. It is estimated that since the programme's creation the LIHTC has helped to finance more than 2.4 million affordable rental-housing

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<sup>25</sup> U.S. Department of Justice. Office of Justice Programs. (May 2004). "Guide for Developing Housing for Ex-Offenders" (NCJ 203374). *Community Capacity Development Office*. Accessed 2016, January 10. <<https://www.ncjrs.gov/pdffiles1/203374.pdf>>.

units for low-income households.<sup>26</sup>

Also, cities and counties are passing legislation that creates other incentives for developers of low-income housing such as bonus densities, fee waivers, and streamlined review processes. Some jurisdictions are also experimenting with amending zoning codes to allow alternative affordable housing options such as cottage housing,<sup>27</sup> accessory dwelling units,<sup>28</sup> small lot development or attached houses. The codes include exemptions or provide for flexibility in applying regulations that help reduce the cost of affordable housing production.

#### IV. CONCLUSION

Government can spark a movement toward creating a more coordinated and intentional approach to re-entry that will foster long-term results. It must first evaluate the population and their needs. Review the research to identify what works and what does not work when servicing the population. Where there are gaps in information, fund the development of more research to get better understanding. More importantly, government should serve as a model of the agenda it promotes. People who are directly affected by the criminal justice system should be able to serve as leaders in developing policies that affect their lives and others who have experienced similar challenges. For example, the U.S. Department of Justice named Daryl Atkinson as its first-ever Second Chance Fellow to serve the department as an advisor with personal experience, expertise, and leadership in the criminal justice field — he is a practicing civil rights and criminal defense attorney and is a formerly incarcerated individual.<sup>29</sup> The U.S. Attorney General Lynch noted, “Recognizing that many of those directly impacted by the criminal justice system hold significant insight into reforming the justice system, the Bureau of Justice Assistance — led by Director Denise O’Donnell — released a competitive solicitation that led to Daryl’s selection.”<sup>30</sup>

Every stakeholder should be represented in the planning phase of re-entry initiatives. When working to address employment and housing, several groups should be at the table along with correctional agencies; other city agencies like economic development, human resource administration, housing and homelessness, public health; state and county officials; community- and faith-based organizations, local educational institutions, workforce development agencies; business associations/employers; universities and academics; and most importantly, formerly incarcerated individuals and their families. The primary decision-makers in the community who hold the power about who qualifies for work and for housing—employers and housing owners—must be sought-after partners in the re-entry effort. This group should be formalized through a legislative or administrative action.

National legislation is useful not only for authorizing certain programmes or allowances to spur business support; it can be the message piece that promotes re-entry as a major component of public safety and economic development. Finally, it can also be a message of redemption and the benefit of giving people a second chance. Reducing recidivism and changing lives will require multiple approaches—different programme models, innovation, flexibility—to improve and increase employment and housing outcomes for justice-involved individuals.

<sup>26</sup> Office of the Comptroller of the Currency. (March 2014). “Low-Income Housing Tax Credits: Affordable Housing Investment Opportunities for Banks.” Available at <<http://www.occ.gov/topics/community-affairs/publications/insights/insights-low-income-housing-tax-credits.pdf>>.

<sup>27</sup> Cottage houses are a grouping of small, single family dwelling units clustered around a common area.

<sup>28</sup> Accessory Dwelling Units (ADU) are small apartments built on a property with a preexisting home as the primary structure. For example, a garage that is converted into livable space. See Ryan, Michael. (2014, December 12) “Using accessory dwelling units to bolster affordable housing.” *Smart Growth America*. Accessed 2016, January 10. <<http://www.smartgrowthamerica.org/2014/12/12/using-accessory-dwelling-units-to-bolster-affordable-housing/>>.

<sup>29</sup> U.S. Attorney General Loretta E. Lynch. (2015, July 30). “Justice Department Announces First-Ever Second Chance Fellow.” Blog. Access 2016, January 15. <<http://www.justice.gov/opa/blog/second-chances-vital-criminal-justice-reform>>.

<sup>30</sup> Ibid.