

# **A Guide to Reentry Supportive Housing:**

A Three-Part Primer for Non-profit Supportive Housing Developers,  
Social Services Providers, and Their Government Partners

Richard Cho  
Doug Gary  
Leslie Ball  
Mark Ladov

April 2002



CORPORATION *for* SUPPORTIVE HOUSING

# Guide to Re-Entry Supportive Housing

---

## Introduction

### Why Supportive Housing Providers Should Be Interested in Prisoner Reentry Issues

*The Need*

*The Opportunity*

### Why Involvement in Reentry Initiatives/Projects Might Present Challenges to Supportive Housing Developers

### Issues in the Development of Reentry Supportive Housing

*Working with Partners*

*Targeted Tenancy and Tenant Screening*

*Project Financing*

*Siting and Community Support*

---

## Introduction

This guide is intended to provide supportive housing providers with a basic introduction to community reentry supportive housing, that is, supportive housing targeted towards formerly incarcerated individuals or *ex-offenders*, including those living with special needs. The objectives of this guide are: 1) to provide a basic understanding of the need for supportive housing targeted towards returning prisoners; 2) to provide a general overview of the criminal justice system (its values, function, and practice) as relates to the community reentry of ex-offenders; and 3) to discuss crucial issues surrounding both the partnerships (between project sponsors) and the people (the target population) involved in community reentry supportive housing.

Users of this guide should be aware that it is not intended to provide a complete understanding of the criminal justice system as relates to prisoner re-entry. Instead, it is intended to raise questions about potential projects and new issues that might be raised by this work. Furthermore, as contexts and conditions vary by locality, readers are encouraged to supplement their understanding of prisoner re-entry issues in their own communities.

## Why Supportive Housing Providers Should Be Interested in Prisoner Reentry Issues

Admittedly, the relationship between supportive housing and the criminal justice system is not an obvious one at first glance, nor is it the case that the need for supportive housing targeting formerly incarcerated persons has been sufficiently argued.

To take a step even further back, one might argue that the relationship is difficult to grasp simply because of the way criminal justice policy and supportive housing policy have evolved in the United States. Historically, the criminal justice system and its punitive arm, corrections, and the hybrid of housing and human services that comprises the field of supportive housing have been kept functionally and politically separate. Most state governments, for instance, place their corrections system within the administrative category of 'public safety,' where policy decisions have often been influenced more by the political strategies than by the needs of its "clients."<sup>1</sup> On the other hand, the

---

<sup>1</sup> Some might argue that the actual clients or constituents of the criminal justice system are in fact the victims of crimes, or the law-abiding public at large. While there is validity to this claim, much of this line of thinking is based on a belief in the existence of a subset of individuals who commit crimes, separate and distinct from the general public. The reality of the matter is that corrections should not only provide a public safety function, in which the separation of dangerous individuals from society is crucial, but should also provide a rehabilitative function, that is, serving individuals who actually commit crimes, i.e., their clients.

various state agencies that interface with supportive housing (i.e. those departments of public health, mental health, and housing) are often placed under a separate administrative category, such as ‘Health and Human Services’ or ‘Housing and Community Development,’ which, ideally, answer the directive of delivering services and resources to their constituent individuals. All of this is to say that, at least within the United States, we deal with ‘prisoners’ very differently than we do with ‘the disabled’ or ‘the poor,’ although clearly these populations may overlap.

### The Need

Why should supportive housing providers be interested in the community reentry of ex-offenders? Because the vast majority of returning ex-offenders are the same people that supportive housing providers set out to serve—those who face persistent mental health; substance use; and other chronic health challenges, and are at risk of homelessness. A recent study by the Urban Institute found that rates of mental illness among incarcerated individuals are at least twice as high as the rates in the overall U.S. population, and estimates that between 8 to 16 percent of the prison population have at least one serious mental illness and require some form of psychiatric services.<sup>2</sup> HIV seroprevalence among inmates is staggering, to the dismay and panic among county and state prison administrators nationwide. Between 151,000 and 197,000 people released from correctional facilities in the U.S. are living with HIV/AIDS, with millions of others living with other infectious diseases such as Hepatitis B and C, and Tuberculosis. Eighty percent of the state prison population in the U.S. reports a history of drug and/or alcohol use, of which 74% are expecting to be released in the next year!<sup>3</sup>

Underlying all of these serious physical and mental health challenges for returning prisoners is the impending threat of homelessness. Unfortunately, due to the pervasive lack of aftercare services for released inmates, it is difficult to estimate the number of state and county prisoners that face homelessness upon release from incarceration. To get a sense of the problem, we can only rely on ‘after-the-fact’ estimates from the perspectives of shelter and services providers, a survey of whom found that “[a]bout half (49 percent) of homeless clients have spent five or more days in a city or county jail in their lifetime. Some of these jail experiences may have been a direct result of their homelessness (i.e., the charges might be for behaviors that are difficult to avoid if one is homeless, such as loitering). Eighteen percent of clients have been in a state or federal prison, and 16 percent were held in juvenile detention at least once before reaching their 18th birthday. *Altogether, 54 percent have some experience of incarceration.*”<sup>4</sup> Where follow-up with released prisoners through post-release mechanisms like parole is possible, rates of homelessness have been found to be high as well. In California, for example, between 30 and 50 percent of parolees released in major urban areas such as San Francisco and Los Angeles are estimated to be homeless.<sup>5</sup>

Whether more individuals are homeless prior to incarceration (in which case their homelessness might be the direct cause of their detention or incarceration) or as a result of their incarceration is unclear, but most experts agree that homeless individuals and ex-offenders alike, particularly those facing chronic health challenges, tend to cycle in and out of street homelessness, shelters, and prisons. Any way one looks at the issue, there is undeniably a tremendous overlap between the population we refer to as ‘ex-offenders’ and the population we refer to as ‘the homeless.’

---

<sup>2</sup> The Urban Institute (2001). *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, 29. The report further states that some estimates show the rate of mental illness among incarcerated individuals to be as high as four times that of the general U.S. population.

<sup>3</sup> Ibid., 28.

<sup>4</sup> Burt, Martha R. et al. (1999) *Homelessness: Programs and the People They Serve*. Emphasis added.

<sup>5</sup> Urban Institute (2001), 36.

Once this overlap is recognized, it becomes difficult to deny the relevance supportive housing—as an effective model of reducing and ending homelessness for people with chronic health challenges or special needs—might have for ex-offenders. Ex-offenders, like other tenants/consumers of supportive housing, would benefit tremendously from the access to social services and stabilizing environment that supportive housing offers. From the handful of supportive housing (and supportive housing-like) projects targeting ex-offenders that do exist, we have learned that recently released ex-offenders often benefit greatly from a semi-structured environment, in which they can re-learn daily living skills, as well as access the support and contact of peers, who have also experienced the recent trauma of incarceration. It is no coincidence that a great many ‘graduates’ of social services programs for ex-offenders stay on to become peer counselors, case managers, and directors of those programs.<sup>6</sup>

Moreover, studies have shown that the need for this kind of support is most critical the first 30 days after one is released from incarceration. It is during this first month that ex-offenders experience the greatest aftershocks of the recent trauma of incarceration, struggle to navigate the complex world of entitlements and benefits, and are the most likely to succumb to stress, commit crimes, and be re-arrested. Conversely, this 30-day period offers a unique window of opportunity for providers to help ex-offenders prepare for a life in the community. This preparation could consist of assisting ex-offenders with obtaining identification, Medicaid coverage and other benefits, connecting them with employment, helping them to obtain treatment for mental illness and/or other health conditions, and most importantly, helping them to obtain permanent housing.<sup>7</sup> In sum, supportive housing, which can provide its tenants with each of these forms of assistance, seems an appropriate means of facilitating the community reintegration of ex-offenders.

### The Opportunity

Yet another reason why supportive housing providers should begin to think seriously about the needs of ex-offenders is simply the wealth and influx of resources that corrections departments continue to enjoy, while other state government divisions and agencies have faced steady cuts in state budget allocations over the past few decades. Indeed, as many prison reform advocates are quick to point out, corrections—both as a division of government and as a field—has experienced an incredible expansion since the 1970s, leading to both a growth in private sector interest in prisons and the tripling of the federal, state, and local prison population. Much of the expansion in corrections, sadly, is due more to economic interests than to social ones. In small towns and rural areas, the prison industry has proven to be a major source of economic growth and employment, replacing the struggling manufacturing sector as the largest employer of local residents. Furthermore, as politicians and elected officials have realized the political attractiveness of appearing “tough on crime,” they have tended towards more stringent sentencing and incarceration policies and accordingly, an increased allocation of public resources towards corrections. The result has been a rise in the number of prisons, the number of prisoners, and in prison spending. According to some reports, the U.S. has “1.8 million prisoners, 455 for every 100,000 citizens, [and] the nation spends some \$21 billion a year on prison construction and maintenance.”<sup>8</sup> Total expenditures on

---

<sup>6</sup> Organizations like the Fortune Society and St. Leonard’s Ministries are proponents of the peer advocacy model, and have institutionalized the practice of hiring program graduates as front-line staff.

<sup>7</sup> Vera Institute of Justice (1999). *The First Month Out: Post Incarceration Experiences in New York City*. The study tracked 49 people released from New York State prisons and New York City jails for thirty days to learn what happens to ex-offenders after their release. One notable finding was that ex-offenders who went to shelters were seven times as likely to abscond from parole than those who went to live with family members.

<sup>8</sup> “The Booming Prison Business,” by David Phinney. From an ABCNEWS.com special report entitled *Profit and Punishment*. [http://abcnews.go.com/sections/us/prison/prison\\_business.html](http://abcnews.go.com/sections/us/prison/prison_business.html). The report also notes that “[s]tock analysts estimate the private prison industry to be a \$30 billion to \$40 billion business.”

corrections rose from “\$9 billion in 1982 to \$44 billion in 1997. These figures do not include the cost of arrest and sentencing processes, nor do they take into account the cost to victims.”<sup>9</sup>

With resources and political support like these at its disposal, corrections should seem well equipped to provide adequate services for its inmates upon their release from custody, if not for humane reasons at least to prevent them from returning to prison. Nevertheless, in line with “tough on crime” policies, corrections departments in many states have been steering away from providing post-release supervision (e.g. parole) or aftercare services (e.g. discharge planning, halfway houses, etc.) for inmates after their release. Instead, more and more funds allocated to corrections are being spent on prison construction and operation, while fewer and fewer funds are being made available to serve the post-release needs of prisoners. This means that there are more prisoners than ever who will be released from prison with few resources and services available to assist them in their return to the community. Given that “[n]early two-thirds of released prisoners are expected to be rearrested for a felony or serious misdemeanor within three years of their release,” such policies may prove at best, self-defeating, and at worst, disastrous.

Recent developments indicate that attitudes, if not the policies themselves, seem to be changing. Although much of this is due to efforts on the part of advocacy groups to raise public awareness about the challenges surrounding prisoner reentry, some of this change is also due to the emerging realization on the part of criminal justice and corrections officials that prisoner reentry poses a problem for the criminal justice system itself. Whatever the reason, there has been an unmistakable rise in interest around the issue of prisoner reentry, as evidenced by recent lawsuits, local and national media attention, research and studies, and proposed state and federal legislation. These include a recent report on prisoner reentry, *From Prison to Home*, by the Urban Institute; the successful class action suit *Brad H. et al. v. Giuliani*, the ruling for which requires the City of New York to provide treatment and support services to mentally ill inmates as they leave Rikers Island, the city’s jail system; as well as a recent Senate bill calling for \$40 million in federal funds to help establish prisoner reentry demonstration programs nationwide. These and other efforts signify that concern is indeed growing for the rising number of people leaving prisons each year, not only among advocates and prisoner reformers, but also among prison and correctional officials themselves.

### **Why Involvement in Reentry Initiatives/Projects Might Present Challenges to Supportive Housing Developers**

Supportive housing providers should also be aware of several challenges unique to the criminal justice context that may complicate involvement. These include challenges related to: 1) the unique service needs of ex-offenders; 2) involvement of the criminal justice system; 3) new kinds of partners; and 4) new project models.

- **Service needs unique to ex-offenders**

First, despite similarities between ex-offenders and current targeted tenant populations of supportive housing, ex-offenders may have unique service needs due to their recent experience of incarceration. Researchers have only begun to study how the experience and trauma of incarceration might affect the longer-term mental health of ex-offenders, but many providers offer some form of counseling to help ex-offenders—particularly those very recently released from prison—cope with feelings of trauma and abuse. Providers have also characterized ex-offenders as being withdrawn, socially isolated, and in fact, not unlike other “institutionalized” persons. Supportive housing providers should be aware of the unique service needs of ex-offenders, and seek out opportunities for relevant training and capacity building.

---

<sup>9</sup> Urban Institute (2001), 1.

- Interfacing with the criminal justice system  
A second important challenge related to supportive reentry housing is the involvement of the criminal justice personnel in the reentry process of ex-offenders. Whether providers seek to serve people released on parole or people who have completed their sentences, the criminal justice system and its various personnel will necessarily be involved. In some ways, this involvement could be beneficial, as in the case of a prison-based case manager who might provide the individual with medical records upon release or aid in the discharge planning or housing placement of the individual, or even the parole officer who might provide the individual with additional case management and referrals to job opportunities. In other ways, however, this involvement might very well be troublesome. Parole and probation supervision often require individuals to follow rules and regulations that may strike providers as coercive and unnecessarily rigid. Prison-based staff may be unclear about inmates' exact discharge dates, thereby complicating the coordination of housing availability with housing placement. Whatever form this involvement takes, providers of reentry supportive housing should be both willing and able to interface with criminal justice system.
- New kinds of partners  
Supportive housing providers should not be surprised if the people who approach them with interest in creating housing for ex-offenders are unlike their usual cadre of non-profits. In fact, the list of people who have already approached CSH staff in various locations includes providers of alternative sentencing programs, state mental health officials, corrections officials, and even district attorneys! Supportive housing providers might find these potential partners to have vastly different perspectives about what their "clients" might need in terms of housing and services than what they usually encounter with partners from the health and housing fields. Naturally, criminal justice personnel are as concerned about public safety and crime prevention as they are about providing for the social service needs of their clients. By understanding the role, the interests/values, and the constraints of the criminal justice system, providers can better evaluate their potential involvement, and also be better prepared to educate new partners about the effectiveness of voluntary services, harm reduction, and other service engagement models.
- New kinds of projects  
In addition to encountering new kinds of partners, potential providers may encounter new kinds of project models that are unfamiliar to them. Since 'prisoner reentry' includes various types of release from custody such as diversion, parole, or discharge upon sentence completion (see Document 2), models of reentry housing may differ substantially from the traditional models of permanent supportive housing that CSH typically supports. One possible difference may be the terms of tenancy. Since some reentry supportive housing models seek to assist released ex-offenders in their *immediate* transition to the community, these project models may resemble transitional housing, in which residents are not given leases. Many providers feel that the congregate, permanent supportive housing model is inappropriate for ex-offenders, who may become further stigmatized and institutionalized through long-term cohabitation with other ex-offenders. Another key difference between reentry housing and traditional supportive housing may lie in their respective social service delivery models. Many providers of community reintegration services for ex-offenders have noted that ex-offenders, like other de-institutionalized individuals, may require a more highly structured residential setting, at least initially, than traditional supportive housing might provide.<sup>10</sup> For example, certain types of services, such as substance use treatment, or regular meetings with social service staff may be

---

<sup>10</sup> These providers feel that ex-offenders have just been released from a highly structured and regimented setting, in which their schedules and activities of daily life have been dictated to them. Many recently released ex-offenders have difficulty adjusting to the absence of such structure, leading to possible substance abuse relapse, mental health decompensation, or criminal activity.

required. In this sense, reentry supportive housing might appear more “program-like” than other supportive housing projects.

Some questions that supportive housing providers should consider, when evaluating a possible partnership or project, include:

1. Does the proposed project model fit within the your organization’s guidelines for supporting a project? For example:
  - a. Will the tenants have written leases or occupancy agreements?
  - b. Are the services voluntary or does the tenant have to participate in services as a condition of occupancy?
  - c. Is there a time limit on how long the tenant can stay in the housing?
2. If the proposed project design does not fit within one or more of the above guidelines, can the sponsor clearly articulate reasons for its program design? Are these reasons legal (i.e. due to the sponsor’s/project’s legal obligations to the court or constraints within the criminal justice system), or programmatic (i.e. based upon the assumptions inherent to a particular service delivery or treatment model)? Are there reasons specifically tied to the likelihood of recidivism for certain types of crimes?
3. Will conditions placed on the project contradict other aspects of your organization’s mission; for example a commitment to make tenancy as unrestrictive as possible?
4. Ultimately, does the project serve the goal of reducing the risk of homelessness for formerly incarcerated persons? In other words, does the project offer either permanent housing directly or a path towards obtaining permanent housing? Is there a risk that the restrictions on tenancy will place people at risk of homelessness? If compliance with services is made a condition of tenancy, will the project ensure that expelled individuals are provided with a residential alternative?

### **Issues in the Development of Reentry Supportive Housing**

#### **Working with the Criminal Justice System–**

Overall, supportive housing providers should understand how their usual roles would be affected by working closely with the criminal justice system. Sponsors should be aware that their autonomy and authority may be compromised as the level of formality of their criminal justice partnership increases. Ultimately, asking the right questions may help you to think through what role the criminal justice system will play in the project, and may help in determining what type of residential model is best suited to your goals.

Working with the criminal justice system may lead to some tricky legal and programmatic issues. Some key questions to ask are:

1. What are your goals for developing supportive housing for returning ex-offenders? Promoting public safety, i.e. reducing recidivism? Treatment? Rehabilitation? Fostering independence? How do these goals shape your program design?
2. In what capacity will you work with inmates/ex-offenders? At what point in the criminal justice/incarceration process, will you encounter and attend to inmates/ex-offenders?
3. If you receive public funding, what legal conditions or restrictions surround the involvement of the project sponsor in developing and operating supportive housing? What legal jurisdiction or custody do you have over the targeted population?
4. Will you have to answer to any authorities regarding the conduct of prospective tenants, i.e. parole, probation, courts, etc.? Is this required by any particular source of funding?

Many non-profit service providers also function in an advocacy role with state and local governments—a role that may affect their ability or willingness to work closely with the corrections or criminal justice system. Furthermore, some supportive housing providers may be unaccustomed to the role of criminal justice/corrections authorities in deciding the fate of tenants. If you are in this position, some key questions to consider include:

1. Do you have a current working relationship with the corrections or criminal justice system? With which specific agency do you have or need a relationship and what does this relationship entail?
2. Are you willing to work closely with criminal justice/corrections agencies in order to: a) receive direct client/tenant referrals; b) accept persons on conditional release (probation or parole) and to work with parole/probation officials; c) adapt tenancy agreement to meet court- or parole-ordered program requirements; and/or d) allow probation or parole officers or other criminal justice personnel to make final decisions regarding violations/revocations?
3. What will be your role vis-à-vis providing legal advocacy/representation to tenants? Could this interfere with your cooperation with criminal justice authorities?
4. Do you have working relationships with local law enforcement officials and staff?

Project sponsors also need to consider the “culture clash” they may encounter when working with the criminal justice system. Criminal justice personnel may have very different perspectives about their “clients” than would supportive housing providers. In addition, criminal justice officials may be highly suspicious of external organizations, and generally unwilling to cooperate or to take risks in creating new policies. On the other hand, supportive housing providers may find some criminal justice personnel who are genuinely concerned about the problem of prisoner reentry, but who are constrained by their respective institutions or agencies. Early communication and clarity about roles and limitations of involved parties should therefore be an important consideration in the creation of reentry supportive housing.

Targeted Tenancy and Tenant Screening – As discussed earlier, the term ‘ex-offenders’ includes a diversity of individuals that may actually have very different service needs. Included among these is a subset of individuals charged with criminal offenses that make housing placement extremely difficult, that is, individuals convicted of arson (the crime of setting fire to buildings) and sex offenses. The latter group may present particular challenges to housing providers since many states have been creating laws that require property owners and sellers to publicly disclose the names of convicted sex offenders. Community opposition to any project targeting this group is likely to be immense. For this reason, providers of services to ex-offenders have largely excluded arsonsists and sex offenders from their targeted populations.

Even when these two groups are excluded, tenant selection presents two important challenges to developers of supportive housing projects targeting criminal justice-involved individuals. The first issue is that funding streams for housing development and for supportive services tend to be directed either towards homeless people with disabilities/chronic health challenges, or low-income individuals. For this reason, developers of supportive housing targeting ex-offenders often choose to narrow their target populations to a particular category such as ‘ex-offenders with serious and persistent mental illness’ or ‘ex-offenders living with HIV/AIDS.’ [See the ‘Guide to Financing Reentry Supportive Housing’ in this series for more details.]

Another challenge has to do with the fact that criminal justice-involved individuals tend to be released into the community in a variety of different ways that may require the involvement of the criminal justice system. For example, a supportive housing project targeting people released on

parole will necessarily receive tenant referrals from the city or state parole board, and therefore, may be forced to share tenant selection and screening decision-making with another agency or authority. [See ‘Overview of Reentry Models’ for more information.] Other providers may opt to target ex-offenders who have ‘maxed-’ or termed out of incarceration, in which case their ability and discretion in selecting tenants will be limited by their ability to enter the prisons and interview potential tenants *prior to their release*. In these cases, providers may have to rely upon prison-based case managers or health providers, or transitional services staff, for help with selecting tenants.

Whatever the program design, developers of reentry supportive housing should think carefully about the issues surrounding the targeted tenancy of their projects. Some questions to consider include:

1. What will be the project's target population? Who does it include? Who does it exclude?
2. How did you decide upon the particular targeted tenancy? What were the criteria for deciding upon this population? If particular groups were excluded, what was the reason for their exclusion? Program design? Funding eligibility restrictions?
3. Is community support/opposition an issue in determining a targeted tenancy? Do local sex offender registry or other laws requiring disclosure of criminal history come into play?
4. What is the availability of funding streams for the proposed targeted tenancy? How was the target population defined in the sponsor's funding applications? Does the targeted tenancy violate any fair housing laws?
5. Was homeless assistance funding (McKinney S+C, SHP, etc. or state homeless funding) sought for the project? How did this influence the definition of the target population?
6. Who will be responsible for tenant selection and screening? If tenant screening and selection authority will be shared, who will be the other party/parties involved in this process? How will this decision-making authority be shared?

Project Financing— As one would expect, there are few public funding streams for the development of projects targeting ex-offenders or other persons involved in the criminal justice system. Funding for projects targeting *released* ex-offenders (who are no longer under the custody or supervision of the criminal justice system) are almost non-existent. However, recent advocacy has been building around the creation of funding streams for re-entry programs from state corrections administrations. Advocates have been looking to either resurrect and refashion outdated funding streams for halfway houses, or have been lobbying for new allocations that would fund the capital, operating, and services costs of post-release supportive housing. In the meantime, however, most non-profits interested in developing supportive housing for ex-offenders will have to creatively finance their projects using homeless housing funds or private foundation support.

Key guiding questions about project financing that project sponsors should consider include:

1. How will the targeted population be defined? Through what form of release will the target population enter the residence? Will the project include men, women, and/or families? Will the targeted population include a mix of ex-offenders and other homeless or special needs individuals?
2. Does the targeted population fit within the eligibility requirements of existing funding programs? Can ‘homelessness status’ or other criteria be established and documented for members of particular target population?

3. Are you willing to adapt the defined targeted population to meet the guidelines of available funding streams? How will this impact the project goals and design?
4. Are there any available funding streams (capital, operating, services) that specifically target/exclude the defined target population? Does the targeted population meet the eligibility criteria of these funding streams?
5. Do funding programs require that tenants be given leases or occupancy agreements? Does the term of residence of the project meet with funding programs' guidelines around tenancy terms?
6. How will screening criteria be established? Will the residence exclude any individuals based upon criminal history, mental health status, etc.? Will the residence include arsonists and sex-offenders?
7. Where will referrals come from? Is the residence required to direct referrals from the court, parole board, etc? Does this referral system come into conflict with fair housing regulations?

Siting and Community Support – The most challenging task confronting non-profits interested in developing supportive housing for criminal justice-involved persons or ex-offenders is obtaining community board and/or local government support for their projects. Unfortunately, the number of supportive housing projects targeting this population appears so limited that there is not yet a rich history successful community support strategies. However, as can be expected, siting a residence for persons with criminal histories or involvement is likely to meet with serious opposition from community residents. Such opposition is only likely to intensify with the presence of additional conditions such as substance use, mental illness, and HIV/AIDS. Project developers must strike a balance between notifying communities of the project details, and protecting the confidentiality and privacy of their prospective tenants.<sup>11</sup>

While there is no guarantee that community support will be obtained, there are practices that have proven to be successful.

- Siting

Where possible, sponsors are well advised to consider siting a project in areas least likely to raise the specter of community opposition. Projects located near schools and other institutions serving people who may be considered especially vulnerable may experience significant challenges. Similarly, projects located outside of areas that are primarily residential will probably encounter less opposition. Finding a balance between the work required to garner community support against the very real needs of tenant access to amenities and support services is paramount in the siting decision. St. Leonard's House is located in an area of Chicago that is mainly warehouses and other nonresidential buildings. Finally, sponsors may consider whether a scattered-site model, if appropriate, may engender less initial community opposition.

- Building Community Support

Project financing, sponsor reputation, and outreach/education to community members and local government officials are among the key elements of successfully building community support. In some communities, certain public financing streams require the approval of local community boards; because supportive housing for this population is still relatively new and controversial, sponsors will probably want to examine the range of financing options to minimize or eliminate any formal requirements if at all possible. A project free of any formal requirements, however, will still benefit from the sponsor working to inspire support or at least dilute significant opposition. Examples of supportive housing projects serving criminal justice-involved persons or ex-offenders that had success with community support include:

---

<sup>11</sup> CSH has resources available that may prove helpful for sponsors seeking to build community support for their projects. For further information, please contact: [info@csh.org](mailto:info@csh.org).

- The Fortune Society has spent five years establishing itself as a part of the West Harlem community in New York City, in preparation for the opening of its Fortune Academy project in 2002. The Fortune Academy, nicknamed “The Castle” for the neo-gothic building on Riverside Drive where it is housed, will provide short-term and long-term housing for people coming out of the criminal justice system.

To gain community support for the project, the Fortune Society began a grassroots campaign in 1997. For five years, it has sent the same representatives to a variety of local meetings, where they have stressed their interest in community involvement. Fortune Society staff has tried to assist community members who come forward with other concerns related to the organization’s work. Staff has also courted community leaders, inviting vocal neighbors who opposed the project to participate in Fortune Society meetings and events.

The Fortune Society also announced its intention to move some of its offices into its new West Harlem building, to show that the organization would be a constant presence in the neighborhood. By cleaning up the property and removing trash and drug dealing from the abandoned lot next door, they have helped to make their neighborhood safer. All of these strategies, important in any community support campaign, are especially important when working with a population that may be particularly unwelcome by members of a community. The Fortune Society has avoided any local funding which would require community board approval of the Fortune Academy; a consultant on the project suggests that getting strong community support for a project of this nature would be extremely difficult. But by working hard to be seen as a responsive and responsible member of its new community, the Fortune Society managed to convert potentially strong opposition to approval of their efforts.

- RS Eden in Minneapolis developed and operates a 140-unit project named Alliance Apartments, which serves individuals who have served time in the jail or prison systems and/or are in recovery from substance use issues. RS Eden is an area leader in providing housing and services, and found that its solid reputation and relationships with community and government leaders helped pave the way for successful siting. The sponsor also called on its connections in the police department by having officers present at various community meetings to respond to community fears with “what’s real and what’s not.” Project planners also offered meeting space in Alliance Apartments for neighborhood association meetings, and promised tenant involvement in community events. The project has delivered on both offers, and is now an integrated part of its neighborhood.

In addition to these strategies and examples, questions that may help guide sponsors to develop good plans for building community board support include:

1. Do the project financing sources require formal community board support? If not, what will the sponsor’s community notification procedures entail?
2. How will the project be described to community residents? Is the project clear on paper? Are credentials in place where needed? How will the tenant population be described to community residents? Is the project serving people from this community and neighborhood?
3. Will the need for the project be discussed? What attempts will be made to educate community residents about ex-offenders’ need for housing, or about the criminal justice system’s impact on communities as a whole?

4. How will the community's fears/myths regarding ex-offenders be addressed? Will the sponsor include stories from previous examples of successful community reintegration? Will the sponsor allow former clients to speak to the community? Will local law enforcement officials speak to the community about what's real and what's not?
5. At what stage in the development process will community residents be notified? What is the plan for presenting the project concept to the community?
6. What attempts will be made to integrate the project into the community? How will the project and the tenants be incorporated/contribute to the well-being of the community?
7. How will crises and conflicts be managed? How will criminal behavior be addressed?
8. Is it important/necessary to share the house rules with the community members?
9. Will the target population be adapted to assuage the fears of community members? How might this impact the sponsor's goals?

### **Conclusion**

As the above sections indicate, developing supportive housing for individuals involved with the criminal justice system presents a significant number of new challenges. However, the rewards are also significant: although there is currently limited research and anecdotal evidence on the subject, indications are that supportive housing can reduce recidivism, provide substantial benefits to tenants, and have a real impact on public safety and expenditures. Given the inadequacy of many discharge plans, and the housing and support needs that many individuals face as they leave incarceration, it is clear that supportive housing can provide ex-offenders with the resources they need to get back on their feet and rejoin their communities.

We hope that the above guide will help potential sponsors and developers to evaluate proposals for supportive housing for ex-offenders and other individuals involved with the criminal justice system who are homeless or at risk of homelessness. For additional assistance, please contact the Corporation for Supportive Housing at [info@csh.org](mailto:info@csh.org).

# **An Overview of the Criminal Justice System**

---

Contents:

Goals and Values in the Criminal Justice System.....	12
Corrections and its Institutions.....	14
An Overview of the Criminal Court Process.....	15
An Overview of Community Re-entry Models.....	19
Other Components of the Continuum.....	23

## **A Brief Overview of the Criminal Justice System**

---

Because of the many challenges that are bound to arise due to the involvement of the criminal justice system in community reentry issues, supportive housing providers would benefit from having a basic knowledge of the criminal justice system, at least insofar as it pertains to prisoner reentry. Whether tenants are on parole release or have fully “maxed out” or “wrapped” their sentences, their experience in the criminal justice system will have an enduring impact on their lives. For this reason, supportive housing providers should have a baseline capacity to interface and deal with the criminal justice system.

This document provides a brief overview of the criminal justice system, including a discussion of the criminal justice system as a whole, its goals, its institutions, and as it relates to the arrest, adjudication, sentencing, incarceration, and discharge of inmates. Because of the complexities as well as state-specific variations in the criminal justice system, this discussion will attempt to be as general as possible, familiarizing readers with a basic vocabulary of terms and concepts. Local experts in the criminal justice field will also be invaluable for learning how the criminal justice system works in your state and community.<sup>12</sup>

### **Goals and Values in the Criminal Justice System**

As mentioned in the “Guide to Re-Entry Supportive Housing,” criminal justice policies at the federal level and in most states have been steadily moving away from assisting prisoners with returning to the community, while increasing the total number of prisoners incarcerated. In most places, these recent trends in policy and practice have become so accepted that few corrections administrations today would consider prisoner reentry to be one of its primary concerns. A closer look at the criminal justice system, however, would reveal how prisoner reentry indeed is and should be a ‘corrections’ issue.

Aside from its more recent political and economic development function, criminal justice in the United States has five goals: 1) retribution or punishment; 2) incapacitation; 3) deterrence; 4) restoration; and 5) rehabilitation. ‘Retribution or punishment’ refers to the notion that “members of a community have an obligation to obey the laws of that community and that anyone who breaks the law deserves punishment.” Underlying this goal is the belief in the law’s ability to maintain public order, and a sense of balance in which individuals are punished according to the severity of their crimes. ‘Incapacitation’ refers to the goal of preventing re-offending by disabling or restricting an

---

<sup>12</sup> For further reading on this subject, see SAMHSA (1994). *Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System*. Treatment Improvement Protocol (TIP) Series, Volume 12. Also see *The Criminal Justice Glossary Today’s* website at <http://www.apbnews.com/resourcecenter/cjlinks/links8.html>

offender, thus reducing the individual's ability to commit crimes. 'Deterrence' is the goal of "sending a message" either to an individual or to the public at large by dealing with criminal behavior in a harsh way. Here, the idea is to frighten people into obeying the law by witnessing the undesirable consequences of misbehavior. The fourth goal of 'restoration' is the idea that the criminal justice system should provide victims of crime with reparation or payment for the crime committed. In this sense, offenders are made to "pay" the victims of their crimes either by financial restitution or through mandated labor. Last but not least, the rehabilitative goal of the criminal justice system involves the view that "the most productive approach to preventing criminal behavior is to diagnose and treat its underlying causes in the individual." To fulfill this goal, the criminal justice system must be able to assess the offenders' needs and create programs for addressing these needs.<sup>13</sup>

In addition to these goals, the criminal justice system must also ensure the achievement of the five system goals of: 1) using resources efficiently and effectively; 2) reducing crowding in jails and prisons; 3) processing cases in a timely manner; 4) enhancing the credibility of its agencies and institutions; and 5) producing resources that offset costs.<sup>14</sup>

Because these goals are complex and often conflicting, the criminal justice system is often found to be seriously deficient in meeting one or another of them. On the one hand, the criminal justice system seeks to increase public safety by being consistent and stern in its dealings with criminal behavior. On the other hand, it must also attempt to provide offenders with humane conditions and adequate programs to address the root causes of criminal behavior. Meanwhile, public criticism is quick to arise when criminal offenders are seen as being treated either too well or too harshly. Historically, the balance has shifted back and forth between these two poles, and more recently, in favor of harsher and more stringent treatment. Resources have shifted more towards the construction of prisons and the incarceration of more inmates and for longer periods of time. In effect, this signifies a narrowing of the goals and function of the criminal justice system exclusive of its rehabilitative function, and an attempt to remove itself from responsibility for the individuals released from its system. Many corrections officials today may even state that they are unable to provide discharge planning or aftercare services for inmates because they are legally unable to have continued contact with inmates once they are released from custody.<sup>15</sup> More and more prisoners are leaving prisons than ever before. They have been provided with fewer rehabilitative programs than ever before and are less prepared for community life than those released twenty or thirty years ago.

It is within this context that supportive housing providers are confronted with the task of working with the criminal justice system. Criminal justice personnel may have very different perspectives about their "clients" than would supportive housing providers. In addition, criminal justice officials may be highly suspicious of external organizations, and generally unwilling to cooperate or to take risks in creating new policies. On the other hand, supportive housing partners may encounter some criminal justice personnel who are genuinely concerned about the problem of prisoner reentry, but who are constrained by their respective institutions or agencies. Early communication and clarity about roles and limitations of involved parties should therefore be an important consideration in the creation of reentry supportive housing.

---

<sup>13</sup> "Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System." (1994) *Treatment Improvement Protocol (TIP) Series 12*. Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment.

<sup>14</sup> Ibid.

<sup>15</sup> That the criminal justice system cannot require continued contact from released inmates should be distinguished from its ability to *offer* such contact, or to adequately plan for an inmate's post-release housing situation, for example. In fact, the criminal justice system is quite able to maintain contact with individuals released from prison through mechanisms like parole.

## Corrections and its Institutions

In the United States, the division of government known as ‘corrections,’ which serves as the penal arm of the criminal justice system, is actually comprised of three separate and distinct systems—federal, state, and local—corresponding to the three-tiered structure of U.S. courts. Each of these corrections systems serves as the custodian of inmates assigned to its respective jurisdiction. Thus, federal corrections are responsible for overseeing federal prisoners or inmates and the construction and administration of federal correctional institutions or prisons, while state corrections are responsible for state inmates and prisons, and so forth. How it is decided which offenders will be sentenced to which jurisdictions is another complicated matter.

In general, offenders are sentenced to the custody of the jurisdiction in which the offense was committed. For example, individuals who have committed offenses against state laws that are punishable by incarceration (*felonies*), and who were tried in state criminal courts, will be sentenced to incarceration in state prisons. These individuals, however, may have been held or *detained* in city or county jails, in which case they will be transferred from that local correctional institution to the state facility. This brings us to another crucial clarifying point, that is, the distinction between *prisons* and *jails*.

Although the terms are often used interchangeably by lay persons, the terms ‘prison’ and ‘jail’ in fact refer to two different types of correctional facilities. The term ‘prison’ refers to any correctional institution that holds convicted and sentenced offenders in custody for a determinate length of time. ‘Jail,’ on the other hand, refers to any facility that is responsible for temporarily holding or *detaining* individuals or defendants while they are awaiting arraignment or trial.<sup>16</sup>

There are federal, state, as well as local prisons, although most jails or detention facilities are under the jurisdiction of local governments (cities or counties). In these municipal or county settings, the use of the terms ‘jail’ and ‘prison’ can become confusing, since a jail and a prison might be co-located. In such facilities, the detention and prison components may be located in separate buildings or areas. In some settings, other terms like ‘house of corrections’ or ‘correctional facility’ are utilized to distinguish county prisons from state prisons. One should not be confused by these terms; any facility that holds sentenced offenders is a prison.

Taking into consideration local and regional differences in practice, most municipal and county prisons will hold inmates who have been convicted of minor felonies and who have been sentenced to relatively short terms, often 2 years or shorter. State prisons often hold inmates who have been convicted of more serious offenses, meriting longer-term sentences, longer than 2 years. Federal prisoners, which comprise only 7.5% of the total U.S. prisoner population, are individuals convicted and sentenced under federal laws.

It is important to understand the differences between these different prisoner sub-populations. Because of their shorter sentences and higher rates of release, inmates of county and municipal prisons and jails may have the most in common with current tenants of supportive housing. These

---

<sup>16</sup> To provide further clarification on the use of terms, an individual is referred to as a ‘defendant’ when (s)he has not yet been convicted, while a convicted individual is referred to as an ‘offender.’ Often, the term ‘felon’ is used to refer to individuals who have been convicted of a felony, or an offense that is serious enough to merit a term of incarceration. The term ‘detainee’ is used to refer to an individual held in jail, while the term ‘inmate’ or ‘prisoner’ refers to an individual incarcerated in prison. Finally, although there are many terms used to refer to persons released from prison, the term ‘ex-offender’ seems to be most commonly used and remains the preferred term among prison reformers and consumers.

inmates are usually those incarcerated for minor drug related or mental health-related offenses, and are more likely to have cycled in and out of prisons, shelters, psychiatric hospitals and other institutions than state prisoners, who may have been incarcerated for several years at a time. County and city inmates are also less likely to have grown accustomed to the institutionalization of prison, having had shorter episodes of incarceration and overall, less time incarcerated. At the same time, city and county prisons have been known to be more violent and dangerous than state prisons, and thus may have a more traumatic effect on inmates. State prisoners, on the other hand, include those convicted of violent crimes as well as other more serious offenses. In states that have mandatory minimum sentencing laws, state prisoners will also include individuals with non-violent second or third count drug offenses. In addition, a large number of state prisoners are individuals with mental illness who have been convicted of violent offenses, but who, in actuality, may or may not be “violent.” In general, state prisoners are more likely than county/city inmates to have grown accustomed to the institutionalization of prison life, and may, upon release, require more assistance with daily living.

Supportive housing providers should be aware that the term ‘ex-offenders’ includes a diversity of individuals who may have varying service needs depending upon their particular incarceration experience. Despite a record of a serious or violent offense, ex-offenders released from state prisons may in fact be more restrained and compliant than county inmates. State inmates, for instance, may have already moved through the state prison system’s own ‘continuum’—from maximum to medium to minimum security facilities—the last of which are often relatively calm and relaxed settings. Ex-offenders from city or county prisons, on the other hand, may have been exposed to more violence and abuse than state prisoners. City and county prisons tend to be more like what one would expect of a prison: cells separated by bars, less supervision by prison staff, with younger, more aggressive inmates. The most important thing for developers of reentry supportive housing projects is to be aware of the different settings ex-offenders may have experienced, as well as the characteristics of different ex-offender groups, and to ensure that supportive housing projects and social services delivery models are appropriate to the individuals that they will serve.

### **An Overview of the Criminal Court Process**

This section attempts to provide readers with a step-by-step guide to what happens to an individual when (s)he is arrested, detained, and incarcerated:

1) *Arrest, detention, and arraignment*

Following arrest, an accused offender is brought to a booking facility where the individual is fingerprinted and checked for prior criminal charges. Afterwards, the individual is often placed in a detention or holding facility, often at a city or county jail, until an arraignment takes place. Roughly stated, an arraignment is the hearing before a court prior to the determination of a defendant’s guilt, in which the identity of the defendant is established, the defendant is informed of the charge(s) and of his or her rights, and the defendant is required to enter a plea. It is also at arraignment that a defendant’s eligibility for bail is established.

2) *Release on bail or release on own recognizance (ROR)*

At the arraignment the judge will decide, based upon the seriousness of the charges presented, if the defendant will be released on his/her own recognizance (ROR), or whether bail will be required. In less serious cases, most often where non-violent criminal charges are involved, a defendant may be ROR-ed, that is, he or she will be released from detention without a required payment, but required to make an appearance at court on a future designated day. If the defendant is eligible for bail, the individual will be released from custody, in return for a promise that he or she will appear at a place and time specified and submit to the jurisdiction and

judgment of the court, guaranteed by a pledge to pay to the court a specified sum of money or property if the person does not appear. In most cases, the money or property pledged to the court or actually deposited with the court will issue the release of a person from legal custody. Although rare, in some states, such pre-trial release can require some form of treatment or supervision, that is, an inmate can be required to participate in drug treatment or supervision by a supervision agency or a probation officer.

3) *Indictment*

If the defendant is not deemed eligible for release from custody on bail, the defendant will remain at the detention facility until a trial or adjudication is scheduled. The length of time between arraignment and adjudication can vary greatly (much to the chagrin of legal advocates), but most statutes require district attorneys (DAs) to arrange to have witnesses give sworn testimony and seek an indictment—a formal, written accusation submitted to the court by a Grand Jury, alleging that a specified person has committed a specified offense, usually a felony—within roughly 5 or 6 days of the defendant’s arrest. A Grand Jury is a body of 16-23 people who hear evidence presented by the DA and decide if there's enough evidence to transfer a case to the Supreme Court as a felony. In New York State, twelve grand jurors can vote an indictment, or they can return the case to Criminal Court as a misdemeanor if they think there is not enough evidence for felony charges but is enough for misdemeanor charges. However, it is during this 6-day (give or take a few days) period that much can happen.

4) *Pre-trial diversion, adjudication, and plea bargaining*

While outcomes vary from state to state, most criminal defense attorneys will testify to the fact that the legal process leans heavily in favor of prosecution. District attorneys typically have a great deal of authority in determining the outcome of criminal cases. Prosecutors have the power to choose the charge upon which conviction will be sought. Since any single act can be charged under many different crime statutes, this discretion is considerable. This is even truer with the passage of mandatory sentencing for drug offenders in many states. As a result, most attorneys will advise their clients to seek ways of reducing their prison time, whether that means through participation in a short-term treatment program, or plea-bargaining.

The first option is known as pre-trial diversion. Here, a defense attorney might determine that a client might benefit from treatment, usually for substance use but also for mental illness and other health challenges. If a client agrees and is facing prosecution for an appropriate charge, the defense counsel may talk with the district attorney and the court to ask for a form of pre-trial diversion. Ultimately, the decision to order treatment (community-based) in lieu of prosecution rests with the DA. If the DA agrees, the prosecutor may choose one of two options.

In the first option, the prosecutor may choose to postpone prosecution and adjudication of a defendant, who in all likelihood will be convicted and face a term of imprisonment. Knowing that a conviction is a ‘fait accompli’ but thinking that incarceration may be inappropriate for the individual, the prosecutor offers to cease all prosecution of the case on the condition that the defendant completes the prescribed program. However, if the defendant fails to complete the program, he or she may risk conviction on the highest count, and a harsher sentence than if the individual had never entered the diversion program.

In the second option, adjudication will take place as normal, but sentencing will be postponed until a defendant completes a prescribed program. In this form of diversion, the prosecutor may choose to continue with a criminal hearing or adjudication, and the defendant will be found guilty of the charges agreed upon by the DA and the defense attorney. The convicted offender will then be ordered by the court to undergo treatment, and a final appearance in court (sentencing) will be postponed pending completion of the treatment program. If the offender

successfully completes the program, no sentencing will take place and all charges will be dismissed at the final appearance in court. However, if the offender fails to complete the program, he or she will appear before the court to undergo formal sentencing procedures, and in all likelihood, will face a prison term.

Most diversion programs, also known as alternative-to-incarceration (ATI) programs, function in the one of the two manners described above. Both forms of pre-trial diversion offers options for defendants to avoid prison time and remove their criminal convictions. In pre-trial diversion that takes place *before* an individual pleads guilty or has been convicted, the individual is technically innocent; all charges are dropped upon completion of the treatment program. Thus, while the incentives to seek pre-trial diversion are high (dropped charges, no conviction, and shorter “time served”), the risk associated with failure (harsher sentencing) is equally discouraging. In diversion programs that take place *after* a determination of guilt has been made, the individual in question will *temporarily* carry a conviction, which may be dropped upon completion of the program. With a determination of guilt in place, the chance that the individual will be incarcerated is greater, thus making the risks of failure in treatment higher.

While both forms of pre-trial diversion are in use, more and more district attorneys are favoring the second option over the first since the standing conviction provides them with more leverage in requiring a successful completion of treatment for defendants. However, whether or not the second option bodes favorably for the long-term success for the individual remains to be seen. Thus, when working with diversion/ATI programs, project sponsors should be aware of the implications of the program design on participants.

If pre-trial diversion is not appropriate or relevant to the individual, the case will move to adjudication. Adjudication, or the determination of guilt, can take place in two ways: 1) through a trial or hearing, or 2) through plea-bargaining.

In cases where clients choose to plea-bargain, the client agrees to plead ‘guilty’ to either the most serious or a less serious charge. Often, if the client pleads guilty to the most serious charge, adjudication and sentencing can take place via mediation between the defense attorney and the court, without the intervention of a prosecutor. If the client agrees to plea for a less serious charge, negotiation between the defender and prosecutor takes place, oftentimes outside of the court. Here, prosecutors will bring to the table their ability to exercise discretion in choosing the charge for conviction. Defense attorneys can only attempt to provide mitigating factors and negotiate around weaknesses, and can suggest ways to make their client’s sentence as unrestrictive as possible. This might mean that they will oppose any mandatory conditions of release. At the same time, defenders may seek to reduce the prison time faced by their clients. Some defenders even will have a social worker interview clients to evaluate them from a clinical perspective. Some public defenders are both energetic and knowledgeable about various forms of community-based alternatives to prison, and conditional release programs, including residence-based programs. They might advocate for a conditional release on probation. The important point is that these negotiations will determine the sentencing for the case. A Bureau of Justice Assistance study found that more than 90 percent of felony convictions in the State courts are the result of guilty pleas rather than trials!

In cases that do go to trial, defendants are found guilty or not guilty. Those found ‘not guilty’ are summarily released from custody. Individuals found ‘guilty’ will await sentencing.

##### 5) *Sentencing and Incarceration*

*In cases settled through plea-bargaining, sentencing is simple: the judge will impose the sentence already agreed upon by the defender, or the defender and the DA. In cases that*

*go to trial, the judge will impose a sentence based upon the conviction. If mandatory sentencing rules apply, the sentence will be pre-determined for the relevant offense. Otherwise, the judge may solicit suggestions from the prosecutor, the defense attorney, and other interested parties, such as the probation agent. It is important to understand the role of the probation agent in sentencing. A good probation officer will often be in a position to examine the case at hand and take a middle ground between the defender and the prosecutor. In this way, probation officers can be an influential third- (or fourth-) party in the sentencing process. While sentences are usually thought of as imprisonment terms, they can also include such intermediate sanctions as release on probation, or eligibility for parole.*

*For an offender sentenced to probation release, the court will order a determinate term of probation, in which the offender is released into the custody of a probation agency. This entity, usually a state or city agency, but sometimes a community-based organization, will be responsible for ordering treatment, imposing restrictions, or otherwise managing the behavior of the offender. Offenders will rarely be released on probation without a plan or destination in place. Public defenders, probation agencies, and courts often maintain lists of eligible housing outplacements. In addition, probation officers are responsible for dealing with probation violations. If offenders are found to be in violation of the terms and rules of their probation, probation officers can issue warnings, intensify supervision, bring the probationer in to be reprimanded by a supervisor, or bring the case back to the judge to ask for a revocation. If violating offenders are brought back to court, he or she may be sentenced to prison time or to another more restrictive form of intermediate sanction. For more information about how probation works in your locality, you should contact your local probation agency.*

#### **A comparison of diversion and probation**

*Although often confused, diversion and probation are very different mechanisms. While diversion occurs prior to a determination of guilt or sentence, probation supervision or related sanctions occur at the sentencing hearing and serve as the individual's sentence. As a result, diversion participants have a chance of removing or avoiding a conviction by successfully completing a program. The particular charge for the alleged offense will not appear on their criminal records. Thus, participation in a diversion program allows an individual to both avoid prison time and the enduring record of a criminal (felony) conviction. Probation participants, on the other hand, have already been found guilty and will retain a criminal record for the offense. Their placement into a community-based setting is only a means of preventing or reducing terms of incarceration.*

*As methods of treatment or services "engagement", both probation and diversion are often considered mixed bags. While diversion/probation reduces prison time for offenders, thus side-stepping the traumatizing experience of incarceration, it is also involves a restrictive form of behavioral control to which most social service providers are unaccustomed. Supportive housing providers working targeting people released on pre-trial diversion or on probation may find the rules, abstinence requirements, and fixed terms associated with these forms of release too restrictive to provide adequate services. At the same time, working with ex-offenders at this stage may help to prevent 'offenders' from becoming 'ex-offenders,' that is, people released from incarceration with no discharge plan, no income or employment, no living skills, and no home.*

---

6) *Release: Parole or Maxing out*

For individuals who are sentenced to incarceration, a number of them may be eligible for parole. Parole supervision is a form of supervised release into the community following a term of incarceration. In this sense, the exact duration of imprisonment is held somewhat indeterminate, technically allowing inmates to be released early if they have been deemed ready by a parole board. Release on parole was considered a privilege and a means of encouraging good behavior and facilitating rehabilitation. Following approval for a particular inmate, a judge will impose a parole sentence on an inmate, releasing her or him to the community under the supervision of the parole board. Like probation, certain conditions of parole release are usually required, which can include abstinence from drugs or alcohol, employment, and a curfew. Parole boards/courts may also require that inmates have a destination and plan for re-entry in place prior to release.

It is important to note that during the past thirty or so years, the number of people released on parole has drastically decreased due to state governments' movement toward "tough on crime" and "truth-in-sentencing" measures. As a result, more and more people are being released from prison after completing their terms (often referred to as "maxing out" or "wrapping up," depending on your state) with no form of supervision, guidance, or assistance. Moreover, as compared with twenty years ago, fewer and fewer parolees are successfully completing their parole terms, many returning to prison for technical violations or for committing new offenses. In 1984, 70 percent of parolees successfully completed their terms. In 1998, that figure dropped to 45%; moreover, that same year 42% of parolees were returned to prison! Although little research has been performed on the reasons for these poor success rates, one possible reason cited by many advocates is the need for stable community-based housing and services for parolees and ex-offenders as a whole.

One can only speculate of the success rates for people released from prison with no supervision at all. The trend today is that more and more offenders are serving out their full sentences in prison. Many of them claim to prefer this to parole, simply because they have no one watching over them after "maxing out" their terms. (The correctional system is legally barred from maintaining supervisory authority over maxed-out, released ex-offenders.) Nevertheless, the vast majority of inmates are released with no plan of how they will "make it" on the outside. Few states provide inmates with adequate discharge planning that will link them to needed services, such as health care and housing, in the community. The few prison systems or facilities that do provide discharge planning are often unequipped to provide adequate services. Not only are they kept unaware of the inmate's discharge dates, but they also are seldom able to maintain linkages and relationships with community-based social services or housing providers.<sup>17</sup>

At the same time, few social service providers are able or willing to meet inmates at the prison prior to or at their release. As a result, a great many ex-offenders are discharged from prison with nowhere to go, with no money or form of income, unequipped to deal with the unstructured chaos of the real world.

### **An Overview of Community Re-entry Models**

Few supportive housing models for ex-offenders currently exist. While many supportive housing providers do provide housing to formerly incarcerated persons, many of their residences do not

---

<sup>17</sup> Many prison-based social services providers responsible for discharge planning complain that inmates' discharge dates are "moving targets." Discharge dates are calculated on the basis of the total sentence term minus any "good time" served by the inmate. Therefore, exact discharge dates are difficult to estimate, target, and plan for. Even having participated in discharge planning processes, many inmates are discharged at a moment's notice with neither a completed plan for reintegration nor with their medical and other records.

accept referrals directly from prisons or jails and most states simply lack a critical mass of housing and social services to meet the needs of returning prisoners. Much of this is due to the widespread failure on the part of local and state governments to respond to the housing and services needs of returning ex-offenders. Throughout the past twenty years, state government policies have tended towards “tough on crime” measure that both increased the total number of people incarcerated, while reducing support for existing post-release opportunities, such as halfway houses, for released inmates. Few states have established funding systems for either state-administered or community-based post-release housing and services, and only a handful of state corrections administrations provide funding for individual projects.

Despite the overall lack of support and resources, several different models of residential community re-entry programs are currently in existence. Essentially, there are five categories or types of supportive housing programs, corresponding to the different forms of prisoner re-entry that exist in the criminal justice system.<sup>18</sup> These categories are not intended to be exclusive, as there may be numerous variations and combinations of them in actuality. These categories are:

- **Alternatives-to-incarceration (ATI)** – Residential programs that provide temporary housing, social services, and meet offenders’ conditions of pre-trial diversion. Program participants are required to stay for determinate term, and must fulfill court-ordered conditions. Providers may retain legal custody over program participants, and may be responsible for determining compliance with terms of diversion. Most are or are closely tied to substance use treatment programs, and often have a heavy vocational focus. A recent focus of ATI programs is family reunification.
- **Probation** – Residential probation programs may function in much the same way as ATIs, except that participants may have fewer court-ordered restrictions and may allow for more flexible service program requirements. Participants are required to attend regularly scheduled appointments with probation officers. Conditions of probation release vary, but may include participation in substance use treatment programs, and vocational training.
- **Pre-release** – Although rare in existence, some states release their inmates to the community a few months prior to the completion of their sentence. This is intended to facilitate their re-entry into the community, linking the inmate to community-based services and employment. In pre-release programs, inmates are still under the custody of corrections, but may be living in (closely monitored) community-based settings.
- **Parole/post-release (direct referrals)** – Some supportive housing providers may wish to provide housing for ex-offenders immediately upon their release, whether this release is via parole or via a sentence completion. These providers will need some form of linkage with the correctional facilities from which their tenants will arrive. Such providers may either receive direct referrals from prison staff (discharge planners, prison health care providers, etc.), transitional case managers (social service providers that work with inmates/ex-offenders inside and outside prisons), parole boards, or other corrections-affiliated referral agency. Because of these direct referrals, these projects may be very effective at preventing post-release homelessness for ex-offenders. The challenges for such projects may include: 1) maintaining relationships and lines of communication with prison-based personnel, 2) providing in-reach services into the prison, 3) less discretion in tenant selection and screening, and 4) providing transportation for tenants from the prison facility to the residence. Residences can be either transitional or permanent, and, in the case of projects targeting post-release ex-offenders (non-parolees), are not required to have mandatory services by courts. Projects targeting parolees may be required by parole boards to have certain mandatory services.
- **Post-release (community referrals)** – By far the community re-entry residence models that will most resemble traditional supportive housing projects are post-release projects that receive

---

<sup>18</sup> See the above ‘Overview of Criminal Court Process.’

referrals from the community. Because the relationship between the project and the criminal justice system is minimal, providers retain their autonomy over their program designs, do not have to contend with court- or parole-ordered rules, and can exercise maximum discretion in tenant selection. However, the gain in providers' flexibility and autonomy (from the criminal justice system) results in a possible loss in effectiveness, as many eligible ex-offenders will be discharged to the shelters or streets.<sup>19</sup>

[Please see the attached matrix on the following page for a summary of issues around these five models.]

General speaking, the more incarceration time an individual avoids, the more the criminal justice system will be involved in the monitoring of the individual's behavior in the community. By the same token, the more the criminal justice system is involved in the monitoring of the individual, the less autonomy the provider will have in the design and operation of the project. In other words, diversion and intermediate sanctions may look more like 'programs' than 'supportive housing'; unlike traditional permanent supportive housing, these programs may require adherence to structured program rules, regulations, and mandated services. In sum, sponsors of supportive housing projects targeting criminal justice-involved persons should be aware of the tradeoff between helping individuals reduce their incarceration time, and subjecting their tenants to the rigid structure of diversion, parole, or probation supervision.

To maximize the rights and dignity of tenants, project sponsors should consider successful models of supportive housing that utilize non-coercive (voluntary) services engagement strategies. CSH remains committed to program designs that foster independence to the fullest extent possible, utilize high-tolerance substance use policies, and incorporate aftercare planning to ensure permanent housing options for participants. Aiming for these goals, despite the constraints that may be created by working with the criminal justice system, will help to ensure the development of successful supportive housing for this population.

---

<sup>19</sup> Many prisoner advocates and experts argue that ex-offenders will be more receptive to voluntary services engagement, if they are met at the door of the prison upon release. Even a short-stay in a shelter or a similar unstructured setting can jeopardize the health and safety of newly released ex-offenders.

<b>Type of Reentry Program</b>	<b>Involvement of CJ-System</b>	<b>Retention of Criminal Charge</b>	<b>Tenant/Client Referrals</b>	<b>Provider Discretion in Tenant Selection</b>	<b>Services Engagement</b>	<b>Term of Residence</b>
<b>Pre-trial diversion/ ATI</b>	High, Participation is often court-ordered, or negotiated by district attorney; participants face criminal conviction and incarceration if non-compliant	No; charges dropped upon completion of program	Criminal courts, district attorney	Low, but provider may be involved with case at plea bargaining	Mostly mandatory services (court-ordered)	Transitional, as agreed upon by DA and ordered by court
<b>Probation</b>	Medium, participation is court-ordered as inmate's sentence; participants face incarceration or other sanction if non-compliant; participants must check-in with probation officer	Yes; sentence to probation term occurs after adjudication	State and local probation agencies	Low, participants are selected and referred to by court	Mix of mandatory services (as condition of release) and voluntary (client-driven) services	Transitional, as ordered by court
<b>Pre-release</b>	High, participation is determined by prison authority at end of inmate's term; sometimes physically located within correctional facility, sometimes community-based	Yes	State and local prison authorities	Low, participation is part of sentence	Mostly mandatory services, as inmates are still technically under custody of corrections	Transitional, according to inmate's sentence term
<b>Parole</b>	Medium, participation is agreed to by Parole Board; participants must check-in with parole officer	Yes	State and local parole boards	Medium, providers can choose to refuse clients selected by parole board	Mix of mandatory services (as condition of release) and voluntary (client-driven) services	Transitional, according to inmate's sentence term and discretion of parole board
<b>Post-release (direct referrals)</b>	Low, for releasees ("maxed out"), corrections system has no legal jurisdiction, except where funding is provided from criminal justice/corrections system	Yes	Discharge planning, prison health officials, self-referrals	High	Voluntary services, at discretion of provider	Transitional or permanent, clients may hold lease as tenants
<b>Post-release (community referrals)</b>	Low, ex-offenders are no longer within custody of corrections, parole, or other cj-agency	Yes	Self-referrals, shelters, drug-treatment programs, etc.	High	Voluntary services, at discretion of provider	Transitional or permanent, clients may hold lease as tenants

## Other Components of the Continuum

Providers should be aware that each of the above models of re-entry supportive housing may be part of a continuum of housing and services options, spanning from the correctional institution itself to permanent housing. As such, project developers should keep an eye on the “big picture” of the re-entry process and how this might affect the tenants of the project at hand. Non-residential components of a continuum of care for ex-offenders may include:

- **Discharge planning** – A process that occurs while the individual is still incarcerated, which prepares the individual for her or his re-entry into the community. Discharge planning is a formal function of corrections administrations in several states, and occurs informally in others via correctional health providers, community-based social services providers, or other prison-based social services staff. Discharge plans usually include an estimated discharge date, programs that the individual has completed in prison, and medical records, and attempt to line up a post-release residence, medical and mental health care providers, other community-based services for the individual.
- **Transitional case management (TCM)** – A comprehensive continuum of post-release services will include some sort of transitional case management, usually performed by a community-based provider authorized to enter prisons. A TCM provider will meet with inmates on the inside, typically a few months or weeks prior to their release, will help in the preparation of discharge plans, meet with community-based housing and services providers, and may actually meet inmates at their release and provide them with transportation from the facility to their destination. Because of their ability to work both inside and outside the prison facilities, TCM providers fill a gap in the post-release continuum, building relationships with community-based organizations where prison-based discharge planners are unable, and providing the essential “in-reach” for community-based organizations.
- **Aftercare planning/permanent housing** – If the supportive housing project is transitional in nature, aftercare planning, including planning for permanent housing, should be an important component of the project’s services. Often, providers of ATI and sanctioning programs fail to understand the challenges ex-offenders may face in seeking and securing permanent housing after completion of the program. Many of these individuals, particularly those with convictions for drug-related offenses, will be rejected for public housing or for Section 8 subsidies due to the ‘One Strike and You’re Out’ policies. Furthermore, in many states, private landlords are legally permitted to request an applicant’s criminal record, and reject the applicant on the basis of a particular charge. Sponsors of transitional re-entry projects are thus encouraged to provide aftercare planning and permanent affordable/supportive housing search, as well as provide training to their program staff on tenants’ rights and housing discrimination.

# Project Financing Issues for Reentry Supportive Housing

---

## CONTENTS:

Introduction .....	24
Homeless Assistance Funding.....	25
‘Special Needs’ Funding.....	26
<i>HIV/AIDS Funding</i> .....	27
<i>Mental Health and Substance Use Funding</i> .....	27
Corrections Funding.....	28
New Funding & Legislation.....	28
<i>The Young Offender Initiative</i> .....	29
<i>The Senate Prisoner Re-entry Bill</i> .....	29
<i>Reform of New York’s Rockefeller Drug Laws</i> .....	29
<i>House Legislation for Housing for Ex-Offenders</i> .....	30
Conclusion.....	30

---

## **Introduction**

Those interested in developing supportive housing targeting ex-offenders or other criminal justice-involved persons may be disappointed to find few or no existing streams of government funding for their projects. In large part, this is due to the general trend towards politically attractive “tough on crime” and “truth in sentencing” policies that have increased the numbers of people incarcerated, lengthened the incarceration terms for many inmates, as well as removed traditional means of facilitating community re-entry. States that once allocated funding for halfway houses have been steadily shrinking or completely cutting with these budget items in the last several decades. Furthermore, the numbers of people being released on parole have been declining as well. The result of these policies is clear: more and more prisoners are staying in prison longer with less and less resources available to help them establish a life in the community upon their release.

The funding sources that managed to survive through the past three decades are dismally small and insufficient to support the new development of halfway or re-entry housing, or to alone support the operation of these residences. Some states, including New York, provide small annual grants for alternatives-to-incarceration, probation programs, and other residential programs that remain under the purview of the criminal justice system. These funding streams may be provided through state probation or parole agencies, or through state or city corrections departments, and are often used to fund operating costs of residential ATIs or probation/parole programs.

Funding for projects targeting released ex-offenders (who are no longer under the custody or supervision of the criminal justice system) are almost non-existent. However, recent advocacy has been building around the creation of funding streams for re-entry programs from state corrections administrations. Advocates have been looking to either resurrect and refashion outdated funding streams for halfway houses, or have been lobbying for new allocations that would fund the capital, operating, and services costs of post-release supportive housing. In the meantime, however, most non-profits interested in developing supportive housing for ex-offenders will have to creatively finance their projects using homeless housing funds, special needs funding, or private foundation support.

Most new residential projects targeting ex-offenders were made possible by accessing development funding streams in other “silos” or areas of government besides corrections. These include homeless housing funding, substance use funding, mental health funding, and affordable housing funding

(including tax credits). The challenge that remains with these “patchwork” financing schemes has been around the definition of target populations. Since few of these funding streams were designed with returning prisoners in mind, developers have faced the challenge of narrowing their target populations to meet funding program eligibility requirements.

### **Homeless Assistance Funding**

By far, most supportive housing projects have relied heavily on the use of public funds for homeless housing or homeless assistance. These funds include federal, state, and local government initiatives that provide capital, operating, and social services subsidies for the development of emergency, transitional, or permanent supportive housing.

Current providers of housing targeted towards ex-offenders might speak to the difficulty of using homeless housing funds to develop supportive housing for ex-offenders. The oft-encountered problem lies in the fact that most homeless housing funding streams restrict eligibility through the use of a formal definition of homelessness. These definitions often exclude persons who are not residing in shelters or on the street. As a result of these definitions, non-profit developers face the challenge of convincing funders and program administrators that ex-offenders fit within the given definition of homelessness, and are indeed homeless (or at least, at-risk of becoming so). Most projects that have successfully accessed homeless assistance funding are those projects that target ex-offenders released from incarceration, either by maxing-out or on parole. Attempts at using homeless funding for ATIs or probation programs have been less successful.

The most widely-used funding stream for projects targeting the homeless are HUD’s McKinney-Vento Act programs, including the Shelter-Plus-Care, the Supportive Housing Program, and the Section 8 SRO Moderate Rehabilitation programs. All of these programs are restricted to persons who fit within the Federal definition of homelessness:

#### **Sec. 11302. - General definition of homeless individual**

##### **(a) In general**

For purposes of this chapter, the term "homeless" or "homeless individual or homeless person" <sup>(1)</sup> includes -

- (1)** an individual who lacks a fixed, regular, and adequate nighttime residence; and
- (2)** an individual who has a primary nighttime residence that is -
  - (A)** a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
  - (B)** an institution that provides a temporary residence for individuals intended to be institutionalized; or
  - (C)** a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

##### **(b) Income eligibility**

###### **(1) In general**

A homeless individual shall be eligible for assistance under any program provided by this chapter, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

###### **(2) Exception**

Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act ([29 U.S.C. 1501](#) et seq.) or title I of the Workforce Investment Act of 1998 ([29 U.S.C. 2801](#) et seq.).

(c) Exclusion

For purposes of this chapter, the term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law

Particular controversy has risen around the 'Exclusion' clause that excludes persons incarcerated or otherwise detained under state or federal law. In some localities, this clause has been interpreted as meaning that former state or state felons are ineligible to receive any subsidies under the McKinney-Vento Act. However, some localities have received clarification from local and regional HUD offices that the clause is only meant to exclude persons who are currently detained or other imprisoned; it does not exclude people who have been released from prison.

The issue remains as to whether or not people released from prison are considered homeless as a result of their "de-institutionalization" from prison. A letter ruling from HUD clarifies that ex-offenders can indeed be considered homeless if they have no housing options upon release from prison, and if successive (in-prison) attempts at identifying housing and/or support networks for the individual have failed. (See attached letter) Despite this clarification, only a few providers nationwide have been able to successfully use McKinney funds to develop supportive housing for formerly incarcerated homeless persons. These providers were careful in both the selection of their targeted tenancy, and the wording used to describe the homelessness of their targeted populations. (See 'Project Profiles' for examples.)

Perhaps the most important obstacle in using homeless, low-income, or affordable housing funding is the lack of flexibility that these funding streams allow in the design of projects. Many providers seeking to develop transitional housing projects, alternative-to-incarceration projects, or other non-traditional forms of supportive housing, may find it difficult to adapt their programs to fit within the guidelines of these funding streams. The important thing to do is to strike a balance between seeking available sources of funding simply to make a project happen and the ensuring the integrity of a particular program design/concept.

One homeless housing stream in New York State stands out as a viable source of capital financing for projects targeting ex-offenders. The Homeless Housing and Assistance Program (HHAP), administered by the Homeless Housing and Assistance Corporation (Office of Temporary and Disability Assistance), has successfully been used by to develop various models of housing targeting ex-offenders, parolees, and people diverted from prison. Much of this success is attributable to HHAP's broad definition of homelessness, which can include individuals and families *at-risk* of homelessness due to their lack of housing alternatives. Ex-offenders, parolees and other de-institutionalized persons fall within this category of persons who lack viable or unsuitable housing alternatives. HHAP has also been used in combination with other funding streams, including homeless housing funding from other federal and municipal agencies, and special needs funding.

**'Special Needs' Funding**

Project sponsors may find that development funding is more readily available in streams targeted towards people with special needs or chronic health challenges. For example, mental health agencies in many states have begun to understand the need for post-release housing targeted to formerly incarcerated persons with mentally illness. Additionally, federal and state government agencies administering HIV/AIDS housing funding have similarly recognized the need for post-release housing targeted to ex-offenders living with HIV/AIDS. Often, these agencies define eligibility for housing funding based upon the disability or health profile of individuals, rather than on the individual's homelessness status. As a result, government funding may be more available for projects

targeted towards ex-offenders living with mental illness, HIV/AIDS, or other chronic health challenges.

### **HIV/AIDS Funding**

Federal Housing Opportunities for People With AIDS (HOPWA) funding have been particularly useful in this regard. Across the country, providers have successfully used HOPWA funds to develop supportive housing for formerly incarcerated people living with HIV/AIDS. There are two streams of HOPWA funding that may be used for program support or housing development. The first is a non-competitive allocation to localities or regions that demonstrate significant HIV/AIDS prevalence. These funds are distributed through a local administrative agency. Another source of funds are the HOPWA Special Projects of National Significance (SPNS). HOPWA SPNS funds are awarded competitively to non-profits that can demonstrate innovation in terms of program concept or population served. HOPWA SPNS funds have been used in New York City, Baltimore, and other cities to develop or expand supportive housing opportunities for ex-offenders living with HIV/AIDS.

The Ryan White CARE Act Title I Funds have been another federal source of funds that have been used in projects targeting ex-offenders living with HIV/AIDS. Ryan White Title I funds are allocated by the federal government to local planning councils, who determine priority uses of the funds. New York City's local planning council, the Medical and Health Research Association (MHRA) released an RFP in 2001 for grants to support the development or operation of emergency transitional housing targeting released inmates and parolees living with HIV/AIDS.

### **Mental Health and Substance Use Funding**

In addition to funding targeted towards people with HIV/AIDS, several states have created dedicated funding streams for the development and operation of supportive housing targeting people living with mental illness and/or substance use issues. Such funding streams, if sufficiently flexible, may be used to target ex-offenders who are living with mental illness or chemical addiction. These funds are usually administered by state mental health, substance abuse, or public health agencies, and may require sponsors to obtain a formal license to operate funded housing.

One example of a mental health funding stream is the New York State Office of Mental Health's 'SRO Housing for Adults with Serious and Persistent Mental Illness Who Can Be Characterized as Having High Service Needs' Program. This program, known simply as 'High Service Needs' funding, grew out of the New York/New York Agreements to House the Homeless Mentally Ill, and was created to target mentally ill persons who were not living on the street or staying in shelters, but were in need of supportive housing. The RFP states that eligible individuals "may currently be in State Psychiatric Hospitals or incarcerated in jails and prisons." Furthermore, OMH High Service Needs funding may be used for people "diagnosed as having co-occurring disorders, such as mental illness and substance abuse and/or alcoholism." This funding stream is relatively new, however, and it remains unclear whether or not it has been effectively used to develop supportive housing for the forensic (criminally involved) mentally ill.

The New York State Office of Alcoholism and Substance Abuse Services (OASAS) also offers capital and operating funding to licensed non-profit substance use service providers. Licensed providers may request capital funds from OASAS as part of the organization's annual need review process. Programs must provide in-house substance use treatment to residents.

## **Corrections Funding**

As stated above, state corrections or criminal justice agencies seldom offer funding for housing or other programs targeting *ex*-offenders or people leaving incarceration. Much of this stems from the belief that the mission of corrections is limited to the “care and custody” of *in*mates and that its responsibility towards these individuals ends once their sentence is complete. This philosophy does not, however, preclude the provision of funding for programs (including residential ones) in which individuals remain under their custody of the criminal justice system. Indeed, many state criminal justice systems do provide funding targeted towards individuals released on probation or parole. Often, these funds include those that support the operation of community-based residences for parolees or probates.

In New York State, the Division of Probation and Correctional Alternatives (DPCA) provides annual grants to fund the operation of residential probation and alternative-to-incarceration programs. These grants are relatively small, and are therefore used to supplement private foundation funding as well as funds from other state agencies. DPCA once served a more significant role in the state criminal justice system, but has been steadily shrinking in importance, facing several cuts in its state budget allocation. More recently, the New York State Department of Parole collaborated with the State Office of Mental Health on a new initiative, the Parole Support and Treatment Program—a program that funds 50 transitional scattered-site housing units targeting parolees living with mental illness.

In other states, corrections administrations have taken a more important role in funding post-release housing for former inmates. The Illinois Department of Correction provides annual operating funding to the Chicago-based residential supportive housing program, St. Andrew’s Court. The Minnesota Department of Correction also provides funding to several community-based housing programs targeting parolees and *ex*-offenders, which are heavily focused on substance use treatment.

At the federal level, the US Department of Justice provides states with grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. These grants, known as Byrne Formula Grants, are awarded to states on the basis of population-based formulas, and can be used broadly to improve the functioning of the criminal justice system, with emphasis on violent crimes and serious offenders, and to enforce state and local laws that establish offenses similar to those in the Federal Controlled Substances Act. In some states, Byrne funding has been used to provide operating grants to non-profit providers of alternative-to-incarceration programs and post-release community re-integration programs.

## **New Funding & Legislation**

In the past year, there have been several attempts at creating funding streams for housing and services targeted to *ex*-offenders and other criminal justice-involved person. These include either new initiatives targeted on the part of federal and state agencies, or attempts by Congress and state legislatures to create new allocations for dedicated funding. Four attempts at creating new funding or legislative allocations are worthy of discussion:

- The Young Offender Initiative;
- A recent Senate Bill focusing on Prisoner Re-entry;
- Attempts by the New York state government to reform the Rockefeller Drug Laws; and
- House legislation to provide housing and services to *ex*-offenders

### **The Young Offender Initiative**

The Young Offender Initiative: Reentry Grant Program is a new funding initiative created in collaboration by three federal agencies: the US Department of Justice, the US Department of Health and Human Services, and the US Department of Labor. The grant application, released in early 2001, states that the Reentry Grant Program provides funding to design, implement, and evaluate reentry programs for offenders ages 14 to 35 that combine criminal justice supervision with job training, mental health care, and substance use services. At the time of its release, the program seemed a welcome and promising means of funding re-entry supportive housing. Unfortunately, in November 2001, the RFP was temporarily retracted by the agencies involved, who stated that the program would be re-released with additional funding and participation from the Departments of Housing and Urban Development and Education.

Under the now defunct version, grants of up to \$3.1 million each were to be awarded to up to 25 different localities for a period of 24 months. Eligible grantees included state, local, or tribal units of government, non-profit organizations, or local Workforce Investment Boards, who could form significant partnerships with a breadth of other agencies and organizations, and who could target former inmates between the ages of 14 and 35, who have been confined for at least 12 consecutive months (6 months for youth ages 14-18).

### **The Senate Prisoner Re-entry Bill**

On January 29, 2001, Senator Joseph Biden introduced a bill authorizing “funding for successful reentry of criminal offenders into local communities.” The bill proposed enactment of the “Offender and Community Safety Act of 2001” and called for the appropriation of \$40 million for 2002-2003 to: 1) establish reentry demonstration projects in several Federal judicial districts targeting inmates of the Federal Bureau of Prisons; 2) establish court-based program to monitor the return of offenders into communities through the use of court sanctions; 3) establish offender reentry demonstration projects in states; 4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders; and 5) evaluate these reentry programs in terms of their effectiveness in reducing recidivism and promoting successful offender reintegration.

The bill was read twice and was referred to the Judiciary Committee. The current status of the bill, however, remains unknown.

### **Reform of New York’s Rockefeller Drug Laws**

In January 2001, both Governor Pataki and the State Assembly under Speaker Sheldon Silver announced proposals to reform of the controversial Rockefeller Drug Laws, New York’s mandatory sentencing laws for felony drug offenders. These laws, enacted in 1973, were long viewed by advocates and policymakers alike to be overly harsh, contributing to a five-fold growth in state prisoners over less than twenty years, as well as unfairly targeted towards communities of color. For this reason, many viewed these reform attempts as long overdue and necessary, if somewhat limited.

The governor’s proposal included such measures as: the reduction of statutory minimum sentence for drug offenders; determinate sentences for repeat drug felons with no violent histories; drug treatment prison diversion programs, including residential treatment; and transitional planning services for drug offenders returning to New York City after serving time in prison. The Assembly proposal called for additional measures such as giving judges greater discretion to sentence non-violent offenders to drug treatment instead of mandatory incarceration, changing drug penalties, and shifting resources away from new prison construction and operation and towards the creation and operation of drug treatment programs. According to the Lindesmith Center, “While neither proposal repeals the Rockefeller Drug Laws, the Assembly proposal does much more to achieve real reform. The Governor’s plan bolsters control of the prosecutors, fails to provide funding for drug

treatment diversion programs, adds stiffer penalties for marijuana offenses, and only provides sentencing relief for three percent of prisoners currently serving sentences under the Rockefeller Drug Laws. The Assembly's proposal for reform would expand treatment options for drug offenders, reduce the range of mandatory minimum sentences, allow those currently sentenced under these laws to petition for review of their sentences, and extend more discretion to judges to divert offenders into drug treatment.”

Unfortunately, due to the state’s difficulties with its budget process, the economic slowdown, and shifted priorities resulting from the September 11<sup>th</sup> attacks, both proposals have been put to the side. However, it is likely that the proposals will reemerge in upcoming legislative sessions, and that with the reforms, funding resources for residential drug treatment will become available.

### **House Legislation for Housing for Ex-Offenders**

In February 2002, Rep. Danny Davis (D-IL) of Chicago introduced the “Public Safety Ex-Offender Self-Sufficiency Act” (HR 3701). The proposed bill would amend the tax code to create a housing credit designed to encourage the provision of housing, job training, and other essential services to ex-offenders. As it is currently written, the bill would have limited benefit for many supportive housing models, as the proposed credit would only aid SRO units with a two-year limit to residency. Moreover, the proposal has yet to receive the broad bipartisan support needed to move forward. However, it does represent some recognition in Congress of the need to address the housing and service needs of this population.

### **Conclusion**

Despite growing momentum within both government and the private sector to address prisoner re-entry issues, available funding to develop and operate supportive housing for the formerly incarcerated remains scarce. Developers of these projects are forced to use patchwork financing schemes, drawing upon homeless assistance resources and funding targeted people with special needs, to underwrite their projects. For this reason, many projects targeting ex-offenders tend to be few in number and narrow in terms of their targeted populations.

Overall, categorical funding streams have left few resources available for projects serving formerly incarcerated persons without special needs, who do not easily fit within the federal definition of homelessness. These individuals continue to be left behind without dedicated funding streams targeted towards them. For this reason, advocates and providers have been looking to the corrections system to fill this funding gap. Although some state corrections agencies have begun to express interest in undertaking this role, it remains to be seen how this new funding role for corrections will affect the projects its funds and the non-profits with which it partners.