

SUMMARY OF RECOMMENDATIONS

1. **Decriminalize the condition of homelessness** by repealing federal, state, and local statutes that criminalize life-sustaining activities performed in public spaces that are permissible in the privacy of a home.
2. **Ensure continuity of health care for persons detained by criminal justice authorities**, including appropriate treatment for addictions, mental illness, and other chronic conditions.
3. **Ban discrimination** against exiting prisoners in housing, employment, and voter registration.
4. **Invest and expand re-entry programs** that help individuals transition more successfully back into their community.

Criminal justice costs have skyrocketed over the last 30 years. The cost to local, state, and federal government has increased nearly six fold between 1982 and 2006, with \$214 billion spent in 2006.¹ A major cause of this growth in cost is the increase in the U.S. prison population. In 2009, over 2.2 million Americans were incarcerated in jails or prisons, a 300% increase since 1980.^{2,3} The rise in incarceration (and related costs) has dramatic human and economic consequences for the nation as a whole and for those experiencing homelessness.

Homelessness contributes to the risk for incarceration, and incarceration contributes to higher risks of homelessness.⁴ Approximately 15% of jail inmates had been homeless in the year prior to their incarceration and 54% of homeless individuals report spending time in a correctional facility at some point in their lives.^{5,6} In addition, those experiencing homeless are found to be arrested more often, incarcerated longer, and re-arrested at higher rates than people with stable housing.⁷ This increased contact with the criminal justice system is due to numerous causes, including use of local ordinances that prohibit sleeping, standing, or panhandling in public spaces, or accepting food in public places such as parks. Upon release many ex-offenders struggle with basic life necessities, facing barriers to obtain housing, income and employment due to their criminal background.⁸ Such barriers only prolong the cycle of homelessness, arrest and incarceration.

Those who are homeless and have behavioral health disorders are overrepresented in the criminal justice system. State prisoners and local jail inmates who had a mental health problem were twice as likely as inmates without a mental health problem to have experienced homelessness in the year before their incarceration, yet few have access to adequate medical or behavioral health care in the community or during incarceration. Lack of adequate treatment only exacerbates those behaviors that lead to arrest.⁹ The U.S. Department of Justice reports that more than half of adults in jails or prisons are mentally ill. Indeed, it has often been said that jails and prisons have become the de facto inpatient behavioral health facilities in the U.S. Examples of corrections systems that have more prisoners with mental illness than any single hospital in the U.S. include the Los Angeles County Jail in California, Cook County Jail in Chicago, and Riker's Island in New York.¹⁰ While there has been an increase in the number of "mental health courts"

that offer alternatives to incarceration, these models have not yet been effective in stemming the tide of individuals with mental illness from being disproportionately incarcerated. Substance use disorders are also incredibly prevalent in correctional facilities with about two out of three inmates meeting diagnostic criteria. Despite evidence that addiction treatment greatly reduces the likelihood of repeat offenses and is far less expensive than incarceration, few inmates in need of such services receive them while incarcerated.¹¹

Criminal Justice, Homelessness & Health Policy Recommendations in Detail

1. Decriminalize the condition of homelessness.

An increasing number of local governments enforce ordinances that prohibit panhandling, sleeping or lying down in public spaces, and/or placing one's belongings under park benches. Unnecessary arrests and incarcerations for such acts disrupt tenuous arrangements for shelter and services and complicate access to housing and employment. An anecdotal connection between ordinances that criminalize the life sustaining activities described above and violence against the homeless has also been observed, possibly due to the message such ordinances send to the community regarding the dignity and civil rights of the homeless.¹² Communities should reverse policies that incarcerate those in need of greater supports and instead work for more effective solutions, such as intensive case management, permanent supportive housing, adequate incomes, and access to disability benefits and comprehensive health services (including treatment for addiction and mental health disorders).

2. Ensure continuity of health care services for those detained by criminal justice authorities, to include behavioral health.

Those in the justice system have poor access to medical care, and significant proportions receive no medical examinations or medications despite chronic conditions, especially in local jails.¹³ This lack of attention to health care can disrupt treatment plans and aggravate serious health problems such as diabetes, asthma, or HIV. Health care providers in the corrections systems should ensure that medical plans are continued, treatment and medications are provided, and health screens are conducted regularly for all inmates. Ensuring adequate health services (to include behavioral health) are provided will not only improve health and stability, but would reduce costs (both inside and outside the correctional system) by avoiding preventable medical complications and ensuring stability for those with behavioral health disorders (untreated behavioral health disorders often lead to violations of facility protocol and longer incarceration stays).^{14,15} One obstacle to proper treatment is the standard practice of discarding medications at the point of entry to prevent contraband from entering the facility. The correctional system should develop alternative policies regarding incarcerated individuals' medication in order to provide uninterrupted medical care and avert this extraordinary waste of resources.

3. Ban discrimination in housing, employment, and voter registration for individuals re-entering the community from jails and prisons.

Current public policy impedes successful reintegration into society at virtually every turn, leading to recidivism and the potential for homelessness. Employment is an essential element of successful integration, but criminal background screenings and questions on job applications often impede gainful employment, even decades after an incarceration. Many states have passed laws to limit the issuance of licenses or the hiring of employees or contractors based prior convictions, sometimes for life and without appeal.¹⁶ Those states that have passed some measure of

protection from employment discrimination do not enforce these provisions effectively.¹⁷ Policies should be put in place to ensure that employment discrimination based solely on criminal history is prohibited, to include prohibiting queries about criminal history on initial applications. Any restrictions on employment should be directly relevant to the job duties and be time limited.

Discrimination in housing and other public benefits poses a huge barrier to successful re-integration and the prevention of homelessness. The Department of Housing and Urban Development bars some with felony convictions from public housing and the Department of Health and Human Services bans for life those with certain drug convictions from receiving Temporary Assistance for Needy Families (TANF) as well as food stamps. Local housing authorities often add a myriad of other restrictions to prohibit entry into public housing (or other housing assistance). Studies have demonstrated that supportive housing reduces criminal justice involvement and mitigates risk for re-incarceration.^{18,19} Eliminating these barriers to housing assistance and employment are essential to ending the cycle of incarceration, recidivism and homelessness.

For those whose conviction is classified as a sex offense, these barriers are even more pronounced. While some restrictions in housing and employment are germane to certain sex offenses, sex offenders often have absolutely nowhere to turn. Housing and services should be made available for those convicted of a sex offense as long as the settings are appropriate for public safety, in order to reduce costs, recidivism, and barriers to successful rehabilitation.

Civic engagement is also limited for those with criminal records. More than 5.3 million Americans are barred from the polls because of a felony conviction. (No other democratic country in the world denies its citizens the right to vote once jail time has been served.) Nearly all states (49) disenfranchise individuals while incarcerated and of these 18 states permanently disenfranchise individuals convicted of felonies (unless they are pardoned).²⁰ These voting rights should be restored through statutory change.

In addition, federal policy requires all members of non-profit organizations (to include the Boards of Directors of community health centers) to disclose felony convictions. This requirement limits the ability of health centers to engage their consumer members in governance activities, and is especially an issue for HCH grantees, since many of their clients have a criminal history. Such limits are imposed as an effort to prevent Medicare fraud, but are not in any way targeted to those individuals whose criminal history might relate to these types of crimes. This policy should be changed to only require disclosure of convictions related to health insurance fraud.

4. Invest and expand re-entry programs that help individuals transition more successfully back into their community

Re-entry programs are designed to reduce recidivism by better linking those leaving incarceration to health services, housing programs, job opportunities and other supports needed to successfully transition back to the community. Prior to release, case managers and health care providers work to establish individual plans that identify areas that are especially challenging or need continuity. In many cases, returning to the same community or situation that existed prior to incarceration is not a constructive option; hence, identifying housing and a source of legal income is critical to ensuring a successful and smooth transition. For those with health needs (to include addictions and mental health), it is also critical that access to comprehensive care be obtained quickly upon release so that medications, treatment, and other medical care plans can be delivered. Congress should fully fund the Second Chance Act, which enables these critical programs to operate.

Accessing benefits upon re-entry is especially problematic. States have the option of terminating or suspending Medicaid benefits upon incarceration, and unfortunately many choose to terminate. The process of re-establishing Medicaid benefits is time-consuming and leads to gaps in health care. In addition, Supplemental Security Income (SSI) benefits are terminated after one calendar year of incarceration; the process to re-apply for these benefits is difficult to initiate while still incarcerated.²¹ The new health insurance exchanges established under the Patient Protection and Affordable Care Act (PPACA, the federal health reform law) also do not allow individuals to enroll in benefits while incarcerated. We recommend the Social Security Administration (SSA) and the Department of Health and Human Services (HHS) require states to allow individuals to initiate enrollment activity while incarcerated. States should also be required to activate both Medicaid and SSI benefits at the point of release, as well as ensure adequate resources for transitioning into these services. Ultimately, better planning for re-entry will reduce the lack of continuity of these critical benefits.

NOTES:

¹ Bureau of Justice Statistics. "Justice Expenditure and Employment Extracts, 2007." Available at <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2315>

² Bureau of Justice Statistics Correctional Surveys. "Correctional Populations in the U.S., 2009." Available at <http://bjs.ojp.usdoj.gov/content/glance/corr2.cfm>

³ U.S. Census Bureau, Population Division, 2011.

⁴ Metraux S, Caterina R, Cho R. "Incarceration and Homelessness" Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research. Ed. Deborah Dennis, Gretchen Locke & Jill Khadduri. Washington DC: US Department of Housing & Urban Development, 2008. <http://works.bepress.com/metraux/1>

⁵ Greenberg, G, Rosenheck, R. (February 2008.) Jail Incarceration, Homelessness, and Mental Health: A National Study. *Psychiatric Services* 59 (2): 170-177.

⁶ HCH Clinicians' Network. Keeping Homeless People Out of the Justice System. *Healing Hands* 8(6): Dec. 2004. http://www.nhchc.org/Network/HealingHands/2004/HealingHands12_17_04.pdf

⁷ Ibid.

⁸ Smart on Crime Coalition. "Recommendations to the Administration and Congress." 2011. Available at: <http://www.besmartoncrime.org/pdf/Complete.pdf>

⁹ James, D. and Glaze, L. Bureau of Justice Statistics. Mental Health Problems in Prison and Jail Inmates. Sep 2006. www.ojp.usdoj.gov/bjs/pub/pdf/mhppji.pdf

¹⁰ Cox, Judith F., et al. (May 2001.) "A Five-Year Population Study of Persons Involved in the Mental Health and Local Correctional Systems." *Journal of Behavioral Health Services and Research* 28 (2): 177-87.

¹¹ The National Center on Addiction and Substance Abuse. "Behind Bars II: Substance Abuse in America's Prison Population." Columbia University, February 2010. Available at: <http://www.casacolumbia.org/articlefiles/575-report2010behindbars2.pdf>

¹² The National Coalition for the Homeless. "Hate Crimes Against the Homeless: America's Growing Tide of Violence." August 2010. Available at <http://www.nationalhomeless.org/publications/hatecrimes/hatecrimes2009.pdf>

¹³ Wiper, A.P. et al. "The Health and Health Care of U.S. Prisoners: Results of a Nationwide Survey." *American Journal of Public Health* 99(4). April 2009.

¹⁴ National Commission on Correctional Health Care. "The Health Status of Soon-to-be-released Inmates: A Report to Congress." Vol. 2, 2002. Available at: [http://www.ncchc.org/stbr/Volume2/Health%20Status%20\(vol%202\).pdf](http://www.ncchc.org/stbr/Volume2/Health%20Status%20(vol%202).pdf)

¹⁵ National Sheriffs Association & Treatment Advocacy Center. "More Mentally Ill Persons are in Jails or Prisons than Hospitals: A Survey of the States." May 2010. Available at: <http://www.sheriffs.org/userfiles/file/FinalJailsvsHospitalsStudy.pdf>

¹⁶ Anne E. Casey Foundation. "Inventorying and Reforming State-Created Employment Restrictions Based on Criminal Records: A Policy Brief and Guide." September 2008. Available at

<http://www.aecf.org/~media/PublicationFiles/Employment%20Restrictions%20Policy%20Guide%20Sept%202008.pdf>

¹⁷ Simonson, J., "Rethinking 'Rational Discrimination' Against Ex-Offenders," *Georgetown Journal on Poverty Law and Policy*, 283, Summer 2006.

¹⁸ Metraux S. and Culhane D. (2004.) Homeless Shelter Use and Reincarceration Following Prison Release, *Criminology & Pub* 3 (2): 139-160.

¹⁹ Larimer, Mary, et. al. (January 2009.) "Health Care and Public Service Use and Costs Before and After Provision of Housing for Chronically Homeless Persons with Severe Alcohol Problems," *Journal of the American Medical Association*.

www.seattlepi.com/dayart/pdf/alcoholic01.pdf

²⁰ The National Law Center on Homelessness and Poverty. (July 2008.) *Voter Registration and Voting: Ensuring the Voting Rights of Homeless Persons*. http://www.nlchp.org/content/pubs/2008_Voting_Report_final2.pdf

²¹ Bazelon Center for Mental Health Law. "For People with Serious Mental Illness: Finding the Key to Successful Transition from Jail or Prison to the Community." November 2009.